

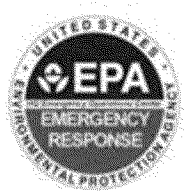
To: Gray, David[gray.david@epa.gov]
From: Gray, David
Sent: Tue 9/19/2017 7:15:19 PM
Subject: FW: HURRICANE HARVEY MANAGEMENT REPORT for SEPTEMBER 19
[FEMA+SLB+-+Irma+and+Harvey+%28Sept+19+-+0500%29.pdf](#)
[Harvey Management Report 9-19 Final.pdf](#)

From: Eoc, Epahq
Sent: Tuesday, September 19, 2017 2:15:07 PM (UTC-06:00) Central Time (US & Canada)
Subject: HURRICANE HARVEY MANAGEMENT REPORT for SEPTEMBER 19

Hello,

Attached and copied below, please find the HQ EOC Management Report for EPA's Response to Harvey. The HQ EOC has been issuing this report daily since August 31. This Management Report is currently being issued daily. As response efforts wind down the issuance frequency will be amended as appropriate.

If you have any questions, please contact the EOC manager at 202-250-8903 or the Deputy EOC Manager 202-250-8904. Thank you.



For Internal Use Only/For Official Use Only

September 18, 2017 12:00 ET

HURRICANE HARVEY MANAGEMENT REPORT

Information contained in this report reflects HQ and regional reporting from the most recently completed operational period as well as other reports provided by HQ, regional and interagency

sources.

National Incident Management Objectives

-

Objective 1: Ensure that health and safety of the EPA response is considered at all times.

Objective 2: Establish an incident management structure and processes employing the Incident Command System to enable effective overall management of the event with deployment of resources (staff and equipment) in a rapid, aggressive and well-coordinated manner.

Objective 3: Ensure prompt Review and Processing of Fuel Waiver requests.

Objective 4: Prepare for and provide Rapid Assessment of Industrial facilities as requested by the State or under EPA's statutory program responsibilities for CERCLA Superfund, RMP and FRP facilities. Working with our state partners, contact industrial sources within the impacted area to determine their operational status and determine what support can be provided with the monitoring of the start-up of industrial sources.

Objective 5: Prepare for and provide Rapid Assessment & Technical Assistance Drinking Water & Wastewater facilities as requested by the State or local government. EPA will support our state partners in contacting drinking water and waste water systems.

Objective 6: Prepare a Sustained Response Plan that outlines the resource and equipment needs for a long duration response.

Objective 7: Activate the Agency's Crisis Communication Plan to insure effective and efficient coordination of all incident communications.

Objective 8: Encourage a collaborative federalism approach, where national, state and local governments interact cooperatively and collectively to solve common problems.

Objective 9: Begin Agency internal and external coordination, under the National Disaster Recovery Framework, regarding Recovery Support Functions in which EPA is likely to be involved.

Executive Summary

- U.S. Representative Culberson (7th District of Texas) is expected to visit Unified Command in Houston on September 18th. The U.S. Coast Guard Director of Incident Management and Preparedness Policy, Dana Tulis, is expected to visit on September 19th and U.S. House Speaker Paul Ryan is expected to visit on September 20th or 21st.
- EPA completed sample collection at 34 Texas Superfund sites potentially impacted by the storm on September 15th. EPA has released 23 post-hurricane Superfund site summaries based on preliminary data on the www.epa.gov/hurricane-harvey website.
- All three branches of Unified Command continue recovering and staging orphan containers for proper disposal:
 - The Corpus Christi branch has transitioned all open sites to the appropriate TCEQ Regional office for closeout;
 - All containers on the staging pad will be transferred to the Houston branch by September 18th before being shipped for disposal. Recovery activities should be completed in 10-20 days; and
 - The Port Arthur/Beaumont branch is projected to complete recovery activities within 5 days.
- Community Liaison teams continue to provide information regarding returning to flooded areas and handling of household waste in the counties of Aransas, San Patricio, Nueces, Wharton, Harris, Jasper, Newton, Montgomery, Fort Bend, Liberty, Brazoria, Galveston, Beaumont, Port Arthur, Jefferson, Orange, Chambers, Matagorda, and Baytown.
- TCEQ requested that FEMA increase EPA's ESF-10 Mission Assignment by \$8.3 million in stages. Once fully approved, this will bring the total funding for assessment and response to \$18.3 million.

-

Region 6 Significant Activities

The Region 6 Region Emergency Operations Center (REOC) is currently activated and working under a limited Emergency Support Function (ESF) #10 FEMA Mission Assignment (MA). EPA has received MAs for over \$10.3 million for recovery operations to include assisting Texas with drinking water, wastewater, and hazmat recovery operations. FEMA announced plans to fund mission assignments in five-day increments.

Mission Assignment Number	Funding Amount	Description of Assignment
4332DR-TX-EPA-03	\$10,092,000	Region 6 field operations including assessing drinking & waste water infrastructure, implementation of Response Manager tracking system, response to hazardous substance releases and oil discharges.
4332DR-TX-EPA-01	\$275,000	Deployment of EPA to various locations, including but not limited to TX SEOC and the FEMA RRCC to support response operations.
Total	\$10,367,000	

-

Number of Region 6 Personnel Involved

Personnel	EPA R6 Dallas	FEMA Denton	Texas JFO Austin	TX SEOC Austin	TCEQ Austin	Houston	Corpus Christi	Beaumont/ Port Arthur	Total
Region 6	56	0	2	2	0	53	13	10	136
START	3	0	0	1	0	4	8	9	25
ERRS	0	0	0	0	0	22	2	15	39
Other	0	0	0	0	0	0	0	0	0
Contractor	0	0	0	0	0	0	0	0	0
Total	59	0	2	3	0	79	23	34	200

-

Debris Recovery Operations

A Federal Debris Management Taskforce was established at the JFO in Austin with EPA serving as a member. Joint EPA and TCEQ field observation teams continue to observe debris staging and landfill operations within the hurricane impacted counties in Texas to ensure best practices and program requirements are being met. FEMA estimates debris to total 16.5 million cubic yards. Observations were completed at 81 sites in the Houston area on September 14th and 15th; observations will begin in Corpus Christi on September 18th.

Container Recovery Operations

This chart includes daily and cumulative data on container recovery:

Waste Received at All Staging Pads to Date – Containers and Cylinders					
	Drums	Small Containers	Large		
	[55 gals]	[<55 gals]	Containers	Cylinders	Total
			[>55 gals]		
9/17/2017	14	23	6	16	59
Total	351	236	32	97	716

-

Corpus Christi Branch

The Oil/Vessel Discharge Recovery Teams continued to assess open targets and placed removal notification placards on five vessels in Cove Harbor. Emergency Response, Orphan Container Recovery, and Staging Area operations were completed and the assigned teams were demobilized.

Houston Branch

The Air Operations Team conducted an overflight during which they cleared a 55-gallon container located in Bay City, Texas and identified two new sunken vessel targets in Dickinson Bayou.

Beaumont/Port Arthur Branch

Land Recovery Teams collected orphan containers in the Sour Lakes, Orange, Rose City, and Beaumont, Texas areas. The Water Recovery Team collected orphan containers assessed by air operations in the Neches River. A total of 26 containers were recovered by all Port Arthur/Beaumont teams on September 17th.

Emergency and Field Response Operations

Region 6 continues to collect and stage recovered orphan containers. They anticipate completion in Corpus Christi, Houston, and Beaumont over the next 10-20 days.

Daily & Cumulative Summary of Hazard Evaluations/Recovery

	Opened		Closed	
	9/17/2017	Number of Targets	9/17/2017	Cumulative
Corpus Christi	0	5	2	101
Houston	0	8	29	378
Port Arthur/Beaumont	0	13	9	117
NRC Reports	0	0	1	5
Total	0	26	41	601

Note: Open means the target is yet to be recovered. Closed means the target was recovered/left in place or access was denied to collect the item.

Daily & Cumulative Summary of Spills/Discharges (non-vessels)				
Location	Opened		Closed	
	Number of			
	9/17/17	Facilities/Spills	9/17/17	Cumulative
Corpus Christi	0	0	0	33
Houston	0	1	0	77
Port Arthur/Beaumont	0	6	1	19
NRC Reports	1	14	3	110
Total	1	21	4	239

Note: Open means the target is yet to be recovered/cleaned up. Closed means the target was recovered/cleaned up by a Responsible Party or not found upon return to location.

Number of Field Team Personnel on September 17 th				
Team Type	Corpus Christi	Houston	Port Arthur/Beaumont	Total
Hazard Evaluation	0	1	1	2
Oil Discharge Assessment	0	2	0	2
ER/Orphan Container Recovery	1	8	3	12
Oil/Vessel Recovery	4	0	0	4
Staging Areas	1	1	1	3
Air Operations	0	1	0	1
Air Monitoring	0	1	0	1
Drinking Water Infrastructure Assessment	0	0	0	0
Wastewater Infrastructure Assessment	0	0	0	0
Total	6	14	5	25

Superfund NPL Sites

- EPA provided oversight to potentially responsible parties (PRPs) and independently collected samples at 34 Texas Superfund sites and 9 Louisiana sites to confirm no releases due to storm impacts. The sampling is part of a longer term assessment that will be used to transition sites back to normal cleanup operations. All preliminary un-validated results for the sites located in Texas have been received while results for the Louisiana sites are expected by September 18th. This data is being posted to www.epa.gov/hurricane-harvey.
- All 43 Federal Superfund sites in the affected area have been assessed. Of these, 41 sites have been cleared, and two sites (San Jacinto Pits and US Oil) require additional follow-up:
 - o *San Jacinto Waste Pits*: The responsible party (RP) completed all manual probing activities of the cap on September 14th. On September 15th, the EPA Dive Team collected underwater sediment samples for dioxin/furan analysis in areas where gaps in the cap were found. The PRPs' dive team is collecting sediment samples from the same areas for the same analysis. The RP submitted, and EPA approved the cap repair work plan on September 15th. The RP began maintenance work on September 16th.
 - o *US Oil*: Since the time the pump down operations began, after hurricane landfall, a total of 64 truckloads of storm water (approximately 320,000 gallons) have been removed from the Site and disposed of in an off-site permitted facility. As of September 18th, the PRP Group is managing the site under normal operations and conditions.

Air Monitoring

A Trace Atmospheric Gas Analyzer (TAGA) team completed monitoring of neighborhoods and areas around Dow Chemical Company, Valero, Marathon, and Blanchard Refinery facilities in Texas City on September 17th. The team also monitored Phillips 66 Sweeny Refinery, Chevron Phillips Sweeny Old Ocean, and Conoco Phillips San Bernard Terminal in Sweeny, Texas. No monitored readings at any of the Sweeny or Texas City facilities exceeded the TCEQ Air Monitoring Comparison Values short-term screening levels. This team is relocating to Corpus Christi and plans to monitor the following facilities on September 18th: Formosa Plastics, Formosa Plastics Marine terminal, and INVISTA Victoria.

A second TAGA team will be based in Port Arthur and will monitor the following facilities on September 18th: Flint Hills Port Arthur, Total Petrochemicals Port Arthur Refinery, Valero (Premcor) Port Arthur Refinery, Motiva Port Arthur Refinery, Oiltanking - Motiva Port Neches Terminal, Shell Pipeline - Crude Product, and Huntsman Petrochemical Port Neches Facility.

Drinking Water/Wastewater Assessments

As of September 14th, drinking water and wastewater assessments have been completed. The remaining systems have been transitioned to the Texas Commission on Environmental Quality (TCEQ) for completion. Of the 2,022 systems designated for follow up, EPA's collaborative work with the State has ensured the return of 1,945 community water systems to fully operational status. These systems cover 99% of the population in the greater Houston area (7.23 out of 7.26 million served).

-

EPA Headquarters Significant Activities:

The HQ EOC is activated to Level 1 in support of the Region 6 response for Hurricane Harvey. The HQ EOC is coordinating with Region 6 and other Federal agencies. Personnel have also deployed to the FEMA NRCC to staff the ESF-10 desk. EPA Senior Management that comprise the Policy Coordinating Committee (PCC) developed and issued senior management objectives that form the basis of field strategy and tactics in response to Harvey.

-

Headquarters Mission Assignments

Mission Assignment Number	Funding Amount	Description of Assignment
4332DR-TX-EPA-01	\$10,000	FEMA HQ ESF-10 Desk Support
4332DR-TX-EPA-02	\$40,000	FEMA HQ ESF-10 Desk Support
Total	\$50, 000	

-

Number of HQ Personnel Involved in the EOC

-

Personnel	AO	OAR	ARM	OCFO	OCSP	DEC	OEI	OGC	OLE	ORD	OW	PIO	ATSDR	Totals
Employees	0	0	0	0	1	1	0	1	13	1	1	1	1	20
Contractors	0	0	0	0	0	0	3	0	3	0	0	0	0	6
Total	0	0	0	0	1	1	3	1	16	1	1	1	1	26

Fuel Waivers

EPA issued No Action Assurance (NAA) Extensions to TCEQ on September 15th, on Loading of

Tank Fuel Trucks at Petroleum Distribution Terminals, Landing Roofs on Gasoline Storage Vessels, and the Use of Vapor Recovery Systems. The extensions were provided until September 22nd at 11:59 PM CDT. The NAA letters are available to the public on www.epa.gov/hurricane-harvey and a press release was issued highlighting these three NAA letters.

Affected State	Waiver Request	Date Received	Status Talking Point	Waiver Response
Reid Vapor Pressure Requirements Waivers				
TX	Letter from TCEQ requesting a waiver of the RVP, RFG and TxLED standards in the Governor's Disaster Proclamation	8/25/17	Extended to October 1st	https://www.epa.gov/newsreleases/epa-act-continue-waiver-fuel-requirements-texas
LA	Letter from LA governor requesting a waiver of the low RVP requirements.	8/28/17	Granted on 8/28/17	https://www.epa.gov/sites/production/files/2018/08/documents/louisianafuelswaiver082817.pdf
AR	The state is drafting a waiver request to temporarily waive the requirement for low 9.0lb RVP fuel.	8/31/17	N/A	N/A
OK	A statewide low RVP fuel waiver request was submitted and then the request was amended.	8/28/17	8/30/17	https://www.epa.gov/enforcement/second-multi-state-fuels-waivers
Dyed NRLM Diesel Fuel Waiver				
TX	Letter from TX comptroller requesting a waiver of using dyed NRLM diesel fuel in motor vehicles.	8/29/17	Granted on 8/29/17; IRS expanded to cover all of TX on 9/3/17	https://www.epa.gov/enforcement/texas-diesel-fuel-waiver
Low Volatility Conventional Gasoline and Reformulated Gasoline (RFG)				
*CT, ME, MA, NH, RH, VT, DE, DC, MD, NJ, NY, and PA, FL, GA, NC, SC, VA, and WV; all mid-western states located in *PADD 2 - IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, SD, OH, OK, TN, and WI; and all Gulf coast states located in PADD 3 -AL, AR, LA, MS, NM, and			Expired; no longer needed	
Multi State*	TX	8/30/17		https://www.epa.gov/multi-state-fuels-waivers

Issuance of waivers based on requests for the allowance of regulated parties within the listed states to produce, sell, or distribute conventional winter gasoline (including BOBs) with an RVP of 11.5 psi before the addition of any ethanol in any RFG covered area. The waiver for El Paso goes until September 16th due to their State

Implementation Plan requirements.

*PADD: Petroleum Administration for Defense Districts

-

Communications

•□□□□□□□ The Crisis Communication Plan remains activated. EOC Public Information Officer (PIO) continues to work on developing fact sheets on issues regarding the recovery including how to handle household hazardous waste and other debris. Region 6 PIO and Data Management team created a *Region 6 Hurricane Harvey - Public Story Map*. The map is located at this link:
<https://epa.maps.arcgis.com/apps/MapJournal/index.html?appid=fadbae6b2832436fb65ca497bd75b9a6>

EPA issued a news release announcing that Administrator Pruitt approved a request from the State of Texas to continue to waive requirements for fuels in Texas through October 1.
<https://www.epa.gov/newsreleases/epa-acts-continue-waiver-fuel-requirements-texas>

Michael Faulkner, Senior Watch Officer

U.S. Environmental Protection Agency

Headquarters Emergency Operations Center

1200 Pennsylvania Ave

Washington, DC 20004

202-564-3850 (24hrs)

eoc.epahq@epa.gov



For Internal Use Only/For Official Use Only

September 19, 2017 12:00 ET

HURRICANE HARVEY MANAGEMENT REPORT

Information contained in this report reflects HQ and regional reporting from the most recently completed operational period as well as other reports provided by HQ, regional and interagency sources. The FEMA Senior Leadership Briefing is attached.

National Incident Management Objectives

- Objective 1: Ensure that health and safety of the EPA response is considered at all times.
- Objective 2: Establish an incident management structure and processes employing the Incident Command System to enable effective overall management of the event with deployment of resources (staff and equipment) in a rapid, aggressive and well-coordinated manner.
- Objective 3: Ensure prompt Review and Processing of Fuel Waiver requests.
- Objective 4: Prepare for and provide Rapid Assessment of Industrial facilities as requested by the State or under EPA's statutory program responsibilities for CERCLA Superfund, RMP and FRP facilities. Working with our state partners, contact industrial sources within the impacted area to determine their operational status and determine what support can be provided with the monitoring of the startup of industrial sources.
- Objective 5: Prepare for and provide Rapid Assessment & Technical Assistance Drinking Water & Wastewater facilities as requested by the State or local government. EPA will support our state partners in contacting drinking water and waste watersystems.
- Objective 6: Prepare a Sustained Response Plan that outlines the resource and equipment needs for a long duration response.
- Objective 7: Activate the Agency's Crisis Communication Plan to insure effective and efficient coordination of all incident communications.
- Objective 8: Encourage a collaborative federalism approach, where national, state and local governments interact cooperatively and collectively to solve common problems.
- Objective 9: Begin Agency internal and external coordination, under the National Disaster Recovery Framework, regarding Recovery Support Functions in which EPA is likely to be involved.

Executive Summary

- Representatives of U.S. Congressman Culberson (7th District of Texas) visited Unified Command in Houston on September 18th. The U.S. Coast Guard Director of Incident Management and Preparedness Policy will visit on September 19th. U.S. House Speaker Paul Ryan is planning to visit on September 20th or 21st.
- The state cost-share for response activities increases to 10 percent match (from zero) including EPA -led operations under Emergency Support Function #10 (ESF-10), beginning September 23rd. EPA is coordinating with the state of Texas to identify ESF -10 operations that will continue after September 22nd.
- Arkema Inc. requested a 90-day extension to EPA's request for information related to their facility. On September 19th, EPA will grant a 30-day extension to Arkema Inc. to complete their response.
- FEMA has not issued EPA a mission assignment for long-term recovery. EPA continues to attend planning meetings and provide technical assistance without a mission assignment.
- EPA completed sample collection at 34 Texas Superfund sites potentially impacted by the storm on September 15th. EPA has released 23 post-hurricane Superfund site summaries based on preliminary data on the www.epa.gov/hurricane-harvey website.
- All three branches of Unified Command continue recovering and staging orphan containers for proper disposal:
 - The Corpus Christi branch has transitioned all open sites to the appropriate Texas Commission on Environmental Quality (TCEQ) Regional office for closeout;
 - All containers on the staging pad continue to be transferred to the Houston branch before being shipped for disposal. Recovery activities should be completed in 10-20 days; and
 - The Port Arthur/Beaumont branch is projected to complete recovery activities within 5 days.
- Community Liaison teams continue to provide information regarding returning to flooded areas and handling of household waste in the counties of Aransas, San Patricio, Nueces, Wharton, Harris, Jasper, Newton, Montgomery, Fort Bend, Liberty, Brazoria, Galveston, Beaumont, Port Arthur, Jefferson, Orange, Chambers, Matagorda, and Baytown.
- TCEQ requested that FEMA increase EPA's ESF-10 Mission Assignment by \$8.3 million in stages. Once fully approved, this will bring the total funding for assessment and response to \$18.3 million.

Region 6 Significant Activities

The Region 6 Region Emergency Operations Center (REOC) is currently activated and working under a limited ESF-10 FEMA Mission Assignment (MA). EPA has received MAs for over \$10.3 million for recovery operations to include assisting Texas with drinking water, wastewater, and hazmat recovery operations. FEMA announced plans to fund mission assignments in five-day increments.

Mission Assignment Number	Funding Amount	Description of Assignment
4332DR-TX-EPA-03	\$10,092,000	Region 6 field operations including assessing drinking & waste water infrastructure, implementation of Response Manager tracking system, response to hazardous substance releases and oil discharges.
4332DR-TX-EPA-01	\$275,000	Deployment of EPA to various locations, including but not limited to TX SEOC and the FEMA RRCC to support response operations.
Total	\$10,367,000	

Number of Region 6 Personnel Involved

Personnel	EPA R6 Dallas	FEMA Denton	Texas JFO Austin	TX SEOC Austin	TCEQ Austin	Houston	Corpus Christi	Beaumont/ Port Arthur	Total
Region 6	50	0	2	1	0	49	19	13	134
START	5	0	0	2	0	4	8	9	28
ERRS	0	0	0	0	0	15	4	15	34
Total	55	0	2	3	0	68	31	37	196

Debris Recovery Operations

A Federal Debris Management Taskforce was established at the JFO in Austin with EPA serving as a member. Joint EPA and TCEQ field observation teams continue to observe debris staging and landfill operations within the hurricane impacted counties in Texas to ensure best practices and program requirements are being met. EPA and TCEQ observers visited 38 sites on September 18th. Currently, FEMA estimates debris to total 17 million cubic yards.

Container Recovery Operations

This chart includes daily and cumulative data on container recovery:

Waste Received at All Staging Pads to Date – Containers and Cylinders					
	Drums [55 gals]	Small Containers [<55 gals]	Large Containers [>55 gals]	Cylinders	Total
9/18/2017	7	11	2	0	20
Total	416	392	33	112	953

Corpus Christi Branch

The Oil/Vessel Discharge Recovery Teams continued to assess open targets and placed 10 removal notification placards on vessels in Rockport. The Branch staging area is being sampled and dismantled.

Houston Branch

The Air Operations Team conducted an overflight of Tiki Island including the surrounding islands. They observed no discharging vessels. The Discharge Assessment Team identified a new target at Stingaree Marina. The ER/Orphan Container Recovery Teams closed three targets where no containers were found.

Beaumont/Port Arthur Branch

The Staging Area Team consolidated all of the oil/fuel products and corrosives. These waste streams will be transferred to the Houston Staging Area this week. ER/Orphan Container Recovery Teams collected 10 containers on the Sabine and Neches Rivers. The responsible party will be contacted to collect one target on the Sabine River. Teams also collected a partially full 500-gallon fuel tank and seven 5-gallon containers of firefighting foam at the CBI industrial facility. The team referred one target that was within the Sea Rim State Park to the Texas Parks and Wildlife Department. The Orphan Container Recovery Land Team retrieved multiple targets from Neches Park. Hazard Evaluation (HE) teams removed boom from the Neches River where no oil was visible. Teams also assessed six NRC and TCEQ reports. Three of the reports were closed with no additional actions needed, one cleanup was verified complete, and two responsible party cleanups are still in progress.

Emergency and Field Response Operations

Region 6 continues to collect and stage recovered orphan containers. They anticipate completion in Corpus Christi, Houston, and Beaumont over the next 10-20 days.

Daily & Cumulative Summary of Hazard Evaluations/Recovery				
Location	Opened		Closed	
	9/18/2017	Number of Targets	9/18/2017	Cumulative
Corpus Christi	0	5	0	101
Houston	1	5	2	380
Port Arthur/Beaumont	0	3	11	128
NRC Reports	0	0	0	5
Total	1	13	13	614
Note: Open means the target is yet to be recovered. Closed means the target was recovered/left in place or access was denied to collect the item.				

Daily & Cumulative Summary of Spills/Discharges (non-vessels)				
Location	Opened		Closed	
	9/18/17	Number of Facilities/Spills	9/18/17	Cumulative
Corpus Christi	0	0	0	33
Houston	0	0	0	77
Port Arthur/Beaumont	1	4	3	22
NRC Reports	3	10	5	115
Total	4	14	8	247
Note: Open means the target is yet to be recovered/cleaned up. Closed means the target was recovered/cleaned up by a Responsible Party or not found upon return to location.				

Number of Field Team Personnel on September 18 th				
Team Type	Corpus Christi	Houston	Port Arthur/ Beaumont	Total
Hazard Evaluation	0	1	1	2
Hazard Evaluation Debris	2	6	0	8
Oil Discharge Assessment	0	2	0	2
ER/Orphan Container Recovery	0	3	2	5
Oil/Vessel Recovery	6	0	0	6
Staging Areas	0	1	1	2
Air Operations	0	1	0	1
Air Monitoring	1	0	0	1
Total	9	14	4	27

Superfund NPL Sites

- ☐ EPA provided oversight to potentially responsible parties (PRPs) and independently collected samples at 34 Texas Superfund sites and 9 Louisiana sites to confirm no releases due to storm impacts. The sampling is part of a longer term assessment that will be used to transition sites back to normal cleanup operations. All preliminary un-validated results for the sites located in Texas have been received while results for the Louisiana sites are expected by September 19th. This data is being posted to www.epa.gov/hurricane-harvey.
- ☐ All 43 Federal Superfund sites in the affected area have been assessed. Of these, 42 sites have been cleared. The San Jacinto Waste Pits site remains uncleared and in need of cap repair. The cap repair work plan was approved September 15th and work began September 16th. No work occurred at San Jacinto Waste Pits September 18th due to required contractor training but work resumes on September 19th.

Air Monitoring

On September 18th, a Trace Atmospheric Gas Analyzer (TAGA) team conducted monitoring of neighborhoods and areas around Formosa Plastics, Formosa Plastics Marine Terminal in Point Comfort, and INVISTA in Victoria. They also monitored in the Point Comfort community. No monitored readings exceeded the TCEQ Air Monitoring Comparison Values short-term screening levels. They plan to monitor facilities in the Corpus Christi area on September 19th.

On September 18th, a second TAGA team conducted air monitoring of neighborhoods and areas around Flint Hills Port Arthur, Total Petrochemicals Port Arthur Refinery, Valero (Premcor), Port Arthur Refinery, Motiva Port Arthur Refinery, Oiltanking - Motiva Port Neches Terminal, Shell Pipeline - Crude Product, Huntsman Petrochemical Port Neches Facility. Air monitoring was also conducted in the neighborhoods North and South of Huntsman, North and East of Valero (Premcor), and East of Motiva. No monitored readings at any facilities exceeded the TCEQ Air Monitoring Comparison Values short-term screening levels. TAGA Team 2 plans to conduct monitoring in the Beaumont area on September 19th.

Drinking Water/Wastewater Assessments

As of September 14th, drinking water and wastewater assessments have been completed. The remaining systems have been transitioned to the TCEQ for completion. Of the 2,022 systems designated for follow up, EPA's collaborative work with the State has ensured the return of 1,945 community water systems to fully operational status. These systems cover 99% of the population in the greater Houston area (7.23 out of 7.26 million served).

EPA Headquarters Significant Activities:

The HQ EOC is activated to Level 1 in support of the Region 6 response for Hurricane Harvey. The HQ EOC is coordinating with Region 6 and other Federal agencies. Personnel have also deployed to the FEMA NRCC to staff the ESF-10 desk. EPA Senior Management that comprise the Policy Coordinating Committee (PCC) developed and issued senior management objectives that form the basis of field strategy and tactics in response to Harvey.

Headquarters Mission Assignments

Mission Assignment Number	Funding Amount	Description of Assignment
4332DR-TX-EPA-01	\$10,000	FEMA HQ ESF-10 Desk Support
4332DR-TX-EPA-02	\$40,000	FEMA HQ ESF-10 Desk Support
Total	\$50, 000	

Number of HQ Personnel Involved in the EOC

Personnel	AO	OAR	OARM	OCFO	OCSPP	OECA	OEI	OGC	OLEM	ORD	OW	PIO	ATSDR	Totals
Employees	1	0	0	0	1	1	1	1	12	1	1	1	1	21
Contractors	0	0	0	0	0	0	3	0	4	0	0	0	0	7
Total	1	0	0	0	1	1	4	1	16	1	1	1	1	28

Fuel Waivers

EPA issued No Action Assurance(NAA) Extensions to TCEQ on September 15th, on Loading of Tank Fuel Trucks at Petroleum Distribution Terminals, Landing Roofs on Gasoline Storage Vessels, and the Use of Vapor Recovery Systems. The extensions expire on September 22nd at 11:59 PM CDT. The NAA letters are available to the public on www.epa.gov/hurricane-harvey and a press release was issued highlighting these three NAA letters.

Affected State	Waiver Request	Date Received	Status Talking Point	Waiver Response
Reid Vapor Pressure Requirements Waivers				
TX	Letter from TCEQ requesting a waiver of the RVP, RFG and TxLED standards in the Governor's Disaster Proclamation	8/25/17	Extended to October 1st	https://www.epa.gov/newsreleases/epa-acts-continue-waiver-fuel-requirements-texas
LA	Letter from LA governor requesting a waiver of the low RVP requirements.	8/28/17	Granted on 8/28/17	https://www.epa.gov/sites/production/files/2017-08/documents/louisianafuelswaiver082817.pdf
AR	The state is drafting a waiver request to temporarily waive the requirement for low 9.0lb RVP fuel.	8/31/17	N/A	N/A
OK	A statewide low RVP fuel waiver request was submitted and then the request was amended.	8/28/17	8/30/17	https://www.epa.gov/enforcement/second-multi-state-fuels-waivers
Dyed NRLM Diesel Fuel Waiver				
TX	Letter from TX comptroller requesting a waiver of using dyed NRLM diesel fuel in motor vehicles.	8/29/17	Granted on 8/29/17; IRS expanded to cover all of TX on 9/3/17	https://www.epa.gov/enforcement/texas-diesel-waiver
Low Volatility Conventional Gasoline and Reformulated Gasoline (RFG)				
Multi State*	<p>*CT, ME, MA, NH, RH, VT, DE, DC, MD, NJ, NY, and PA, FL, GA, NC, SC, VA, and WV; all mid-western states located in *PADD 2 - IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, SD, OH, OK, TN, and WI; and all Gulf coast states located in PADD 3 -AL, AR, LA, MS, NM, and TX</p> <p>Issuance of waivers based on requests for the allowance of regulated parties within the listed states to produce, sell, or distribute conventional winter gasoline (including BOBs) with an RVP of 11.5 psi before the addition of any ethanol in any RFG covered area. The waiver for El Paso goes until September 16th due to their State Implementation Plan requirements.</p>	8/30/17	Expired; no longer needed	https://www.epa.gov/enforcement/second-multi-state-fuels-waivers

*PADD: Petroleum Administration for Defense Districts

Communications

- ❑ The Crisis Communication Plan remains activated. EOC Public Information Officer (PIO) continues to work on developing fact sheets on issues regarding the recovery including how to handle household hazardous waste and other debris. Region 6 PIO and Data Management team created a *Region 6 Hurricane Harvey - Public Story Map*. The map is located at this link: <https://epa.maps.arcgis.com/apps/MapJournal/index.html?appid=fadbae6b2832436fb65ca497bd75b9a6>
- ❑ EPA issued a news release announcing that Administrator Pruitt approved a request from the State of Texas to continue to waive requirements for fuels in Texas through October 1st. <https://www.epa.gov/newsreleases/epa-acts-continue-waiver-fuel-requirements-texas>

To: Gray, David[gray.david@epa.gov]
From: Gray, David
Sent: Mon 9/18/2017 4:45:41 PM
Subject: FW: HURRICANE HARVEY MANAGEMENT REPORT for SEPTEMBER 18
Harvey Management Report 9-18 Final.pdf
FEMA Senior Leadership Briefing - Hurricane MARIA and Post-Tropical Cyclone IRMA and HARVEY -
0600 ET 18 Sep 17.pdf

From: Eoc, Epahq
Sent: Monday, September 18, 2017 11:45:33 AM (UTC-06:00) Central Time (US & Canada)
Subject: HURRICANE HARVEY MANAGEMENT REPORT for SEPTEMBER 18



For Internal Use Only/For Official Use Only

September 18, 2017 12:00 ET

HURRICANE HARVEY MANAGEMENT REPORT

Information contained in this report reflects HQ and regional reporting from the most recently completed operational period as well as other reports provided by HQ, regional and interagency sources.

National Incident Management Objectives

-

Objective 1: Ensure that health and safety of the EPA response is considered at all times.

Objective 2: Establish an incident management structure and processes employing the Incident Command System to enable effective overall management of the event with deployment of resources (staff and equipment) in a rapid,

aggressive and well-coordinated manner.

Objective 3: Ensure prompt Review and Processing of Fuel Waiver requests.

Objective 4: Prepare for and provide Rapid Assessment of Industrial facilities as requested by the State or under EPA's statutory program responsibilities for CERCLA Superfund, RMP and FRP facilities. Working with our state partners, contact industrial sources within the impacted area to determine their operational status and determine what support can be provided with the monitoring of the start-up of industrial sources.

Objective 5: Prepare for and provide Rapid Assessment & Technical Assistance Drinking Water & Wastewater facilities as requested by the State or local government. EPA will support our state partners in contacting drinking water and waste water systems.

Objective 6: Prepare a Sustained Response Plan that outlines the resource and equipment needs for a long duration response.

Objective 7: Activate the Agency's Crisis Communication Plan to insure effective and efficient coordination of all incident communications.

Objective 8: Encourage a collaborative federalism approach, where national, state and local governments interact cooperatively and collectively to solve common problems.

Objective 9: Begin Agency internal and external coordination, under the National Disaster Recovery Framework, regarding Recovery Support Functions in which EPA is likely to be involved.

Executive Summary

- U.S. Representative Culberson (7th District of Texas) is expected to visit Unified Command in Houston on September 18th. The U.S. Coast Guard Director of Incident Management and Preparedness Policy, Dana Tulis, is expected to visit on September 19th and U.S. House Speaker Paul Ryan is expected to visit on September 20th or 21st.

- EPA completed sample collection at 34 Texas Superfund sites potentially impacted by the storm on September 15th. EPA has released 23 post-hurricane Superfund site summaries based on preliminary data on the www.epa.gov/hurricane-harvey website.

- All three branches of Unified Command continue recovering and staging orphan containers for proper disposal:
 - The Corpus Christi branch has transitioned all open sites to the appropriate TCEQ Regional office for closeout;
 - All containers on the staging pad will be transferred to the Houston branch by September 18th before being shipped for disposal. Recovery activities should be completed in 10-20 days; and
 - The Port Arthur/Beaumont branch is projected to complete recovery activities within 5 days.
- Community Liaison teams continue to provide information regarding returning to flooded areas and handling of household waste in the counties of Aransas, San Patricio, Nueces, Wharton, Harris, Jasper, Newton, Montgomery, Fort Bend, Liberty, Brazoria, Galveston, Beaumont, Port Arthur, Jefferson, Orange, Chambers, Matagorda, and Baytown.
- TCEQ requested that FEMA increase EPA's ESF-10 Mission Assignment by \$8.3 million in stages. Once fully approved, this will bring the total funding for assessment and response to \$18.3 million.

-

Region 6 Significant Activities

The Region 6 Region Emergency Operations Center (REOC) is currently activated and working under a limited Emergency Support Function (ESF) #10 FEMA Mission Assignment (MA). EPA has received MAs for over \$10.3 million for recovery operations to include assisting Texas with drinking water, wastewater, and hazmat recovery operations. FEMA announced plans to fund mission assignments in five-day increments.

Mission Assignment Number	Funding Amount	Description of Assignment
4332DR-TX-EPA-03	\$10,092,000	Region 6 field operations including assessing drinking & waste water infrastructure, implementation of Response Manager tracking system, response to hazardous substance releases and oil discharges.
4332DR-TX-EPA-01	\$275,000	Deployment of EPA to various locations, including but not limited to TX SEOC and the FEMA RRCC to support response operations.
Total	\$10,367,000	

-

-

Number of Region 6 Personnel Involved

Personnel	EPA R6 Dallas	FEMA Denton	Texas JFO Austin	TX SEOC Austin	TCEQ Austin	Houston	Corpus Christi	Beaumont/ Port Arthur	Total
Region 6	56	0	2	2	0	53	13	10	136
START	3	0	0	1	0	4	8	9	25
ERRS	0	0	0	0	0	22	2	15	39
Other	0	0	0	0	0	0	0	0	0
Contractor	0	0	0	0	0	0	0	0	0
Total	59	0	2	3	0	79	23	34	200

-

Debris Recovery Operations

A Federal Debris Management Taskforce was established at the JFO in Austin with EPA serving as a member. Joint EPA and TCEQ field observation teams continue to observe debris staging and landfill operations within the hurricane impacted counties in Texas to ensure best practices and program requirements are being met. FEMA estimates debris to total 16.5 million cubic yards. Observations were completed at 81 sites in the Houston area on September 14th and 15th; observations will begin in Corpus Christi on September 18th.

Container Recovery Operations

This chart includes daily and cumulative data on container recovery:

Waste Received at All Staging Pads to Date – Containers and Cylinders					
	Drums [55 gals]	Small Containers [<55 gals]	Large Containers [>55 gals]	Cylinders	Total
9/17/2017	14	23	6	16	59
Total	351	236	32	97	716

-

Corpus Christi Branch

The Oil/Vessel Discharge Recovery Teams continued to assess open targets and placed removal notification placards on five vessels in Cove Harbor. Emergency Response, Orphan Container Recovery, and Staging Area operations were completed and the assigned teams were demobilized.

-

Houston Branch

The Air Operations Team conducted an overflight during which they cleared a 55-gallon container located in Bay City, Texas and identified two new sunken vessel targets in Dickinson Bayou.

Beaumont/Port Arthur Branch

Land Recovery Teams collected orphan containers in the Sour Lakes, Orange, Rose City, and Beaumont, Texas areas. The Water Recovery Team collected orphan containers assessed by air operations in the Neches River. A total of 26 containers were recovered by all Port Arthur/Beaumont teams on September 17th.

Emergency and Field Response Operations

Region 6 continues to collect and stage recovered orphan containers. They anticipate completion in Corpus Christi, Houston, and Beaumont over the next 10-20 days.

Daily & Cumulative Summary of Hazard Evaluations/Recovery				
Location	Opened		Closed	
	9/17/2017	Number of Targets	9/17/2017	Cumulative
Corpus Christi	0	5	2	101
Houston	0	8	29	378
Port Arthur/Beaumont	0	13	9	117
NRC Reports	0	0	1	5
Total	0	26	41	601

Note: Open means the target is yet to be recovered. Closed means the target was recovered/left in place or access was denied to collect the item.

Daily & Cumulative Summary of Spills/Discharges (non-vessels)				
Location	Opened		Closed	
	9/17/17	Number of Facilities/Spills	9/17/17	Cumulative
Corpus Christi	0	0	0	33
Houston	0	1	0	77
Port Arthur/Beaumont	0	6	1	19
NRC Reports	1	14	3	110
Total	1	21	4	239

Note: Open means the target is yet to be recovered/cleaned up. Closed means the target was recovered/cleaned up by a Responsible Party or not found upon return to location.

Number of Field Team Personnel on September 17th				
Team Type	Corpus Christi	Houston	Port Arthur/ Beaumont	Total
Hazard Evaluation	0	1	1	2
Oil Discharge Assessment	0	2	0	2
ER/Orphan Container Recovery	1	8	3	12
Oil/Vessel Recovery	4	0	0	4
Staging Areas	1	1	1	3
Air Operations	0	1	0	1
Air Monitoring	0	1	0	1
Drinking Water Infrastructure Assessment	0	0	0	0
Wastewater Infrastructure Assessment	0	0	0	0
Total	6	14	5	25

-

Superfund NPL Sites

- EPA provided oversight to potentially responsible parties (PRPs) and independently collected samples at 34 Texas Superfund sites and 9 Louisiana sites to confirm no releases due to storm impacts. The sampling is part of a longer term assessment that will be used to transition sites back to normal cleanup operations. All preliminary un-validated results for the sites located in Texas have been received while results for the Louisiana sites are expected by September 18th. This data is being posted to www.epa.gov/hurricane-harvey.

- All 43 Federal Superfund sites in the affected area have been assessed. Of these, 41 sites have been cleared, and two sites (San Jacinto Pits and US Oil) require additional follow-up:

- o *San Jacinto Waste Pits*: The responsible party (RP) completed all manual probing activities of the cap on September 14th. On September 15th, the EPA Dive Team collected underwater sediment samples for dioxin/furan analysis in areas where gaps in the cap were found. The PRPs' dive team is collecting sediment samples from the same areas for the same analysis. The RP submitted, and EPA approved the cap repair work plan on September 15th. The RP began maintenance work on September 16th.

- o *US Oil*: Since the time the pump down operations began, after hurricane landfall, a total of 64 truckloads of storm water (approximately 320,000 gallons) have been removed from the Site and disposed of in an off-site permitted facility. As of September 18th, the PRP Group is managing the site under normal operations and conditions.

Air Monitoring

A Trace Atmospheric Gas Analyzer (TAGA) team completed monitoring of neighborhoods and areas around Dow Chemical Company, Valero, Marathon, and Blanchard Refinery facilities in Texas City on September 17th. The team also monitored Phillips 66 Sweeny Refinery, Chevron Phillips Sweeny Old Ocean, and Conoco Phillips San Bernard Terminal in Sweeny, Texas. No monitored readings at any of the Sweeny or Texas City facilities exceeded the TCEQ Air Monitoring Comparison Values short-term screening levels. This team is relocating to Corpus Christi and plans to monitor the following facilities on September 18th: Formosa Plastics, Formosa Plastics Marine terminal, and INVISTA Victoria.

A second TAGA team will be based in Port Arthur and will monitor the following facilities on September 18th: Flint Hills Port Arthur, Total Petrochemicals Port Arthur Refinery, Valero (Premcor) Port Arthur Refinery, Motiva Port Arthur Refinery, Oiltanking - Motiva Port Neches Terminal, Shell Pipeline - Crude Product, and Huntsman Petrochemical Port Neches Facility.

Drinking Water/Wastewater Assessments

As of September 14th, drinking water and wastewater assessments have been completed.

The remaining systems have been transitioned to the Texas Commission on Environmental Quality (TCEQ) for completion. Of the 2,022 systems designated for follow up, EPA's collaborative work with the State has ensured the return of 1,945 community water systems to fully operational status. These systems cover 99% of the population in the greater Houston area (7.23 out of 7.26 million served).

-

EPA Headquarters Significant Activities:

The HQ EOC is activated to Level 1 in support of the Region 6 response for Hurricane Harvey. The HQ EOC is coordinating with Region 6 and other Federal agencies. Personnel have also deployed to the FEMA NRCC to staff the ESF-10 desk. EPA Senior Management that comprise the Policy Coordinating Committee (PCC) developed and issued senior management objectives that form the basis of field strategy and tactics in response to Harvey.

-

Headquarters Mission Assignments

Mission Assignment Number	Funding Amount	Description of Assignment
4332DR-TX-EPA-01	\$10,000	FEMA HQ ESF-10 Desk Support
4332DR-TX-EPA-02	\$40,000	FEMA HQ ESF-10 Desk Support
Total	\$50, 000	

-

Number of HQ Personnel Involved in the EOC

-

Personnel	AO	OAR	ARM	OCFO	OCSP	DEC	OEI	OGC	OLE	ORD	OW	PIO	ATSDR	Totals
Employees	0	0	0	0	1	1	0	1	13	1	1	1	1	20
Contractors	0	0	0	0	0	0	3	0	3	0	0	0	0	6
Total	0	0	0	0	1	1	3	1	16	1	1	1	1	26

Fuel Waivers

EPA issued No Action Assurance (NAA) Extensions to TCEQ on September 15th, on Loading of Tank Fuel Trucks at Petroleum Distribution Terminals, Landing Roofs on Gasoline Storage Vessels, and the Use of Vapor Recovery Systems. The extensions were provided until September 22nd at 11:59 PM CDT. The NAA letters are available to the public on www.epa.gov/hurricane-harvey and a press release was issued highlighting these three NAA letters.

Affected State	Waiver Request	Date Received	Status Talking Point	Waiver Response
Reid Vapor Pressure Requirements Waivers				
TX	Letter from TCEQ requesting a waiver of the RVP, RFG and TxLED standards in the Governor's Disaster Proclamation	8/25/17	Extended to October 1st	https://www.epa.gov/newsreleases/epa-act-continue-waiver-fuel-requirements-texas
LA	Letter from LA governor requesting a waiver of the low RVP requirements.	8/28/17	Granted on 8/28/17	https://www.epa.gov/sites/production/files/2017/08/documents/louisianafuelswaiver082817.pdf
AR	The state is drafting a waiver request to temporarily waive the requirement for low 9.0lb RVP fuel.	8/31/17	N/A	N/A
OK	A statewide low RVP fuel waiver request was submitted and then the request was amended.	8/28/17	8/30/17	https://www.epa.gov/enforcement/second-multi-state-fuels-waivers
Dyed NRLM Diesel Fuel Waiver				
TX	Letter from TX comptroller requesting a waiver of using dyed NRLM diesel fuel in motor vehicles.	8/29/17	Granted on 8/29/17; IRS expanded to cover all of TX on 9/3/17	https://www.epa.gov/enforcement/texas-diesel-fuel-waiver
Low Volatility Conventional Gasoline and Reformulated Gasoline (RFG)				
*CT, ME, MA, NH, RH, VT, DE, DC, MD, NJ, NY, and PA, FL, GA, NC, SC, VA, and WV; all mid-western states located in *PADD 2 - IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, SD, OH, OK, TN, and WI; and all Gulf coast states located in PADD 3 -AL, AR, LA, MS, NM, and TX			Expired; no longer needed	
Multi State*		8/30/17		https://www.epa.gov/multi-state-fuels-waivers

Issuance of waivers based on requests for the allowance of regulated parties within the listed states to produce, sell, or distribute conventional

winter gasoline (including BOBs) with an RVP of 11.5 psi before the addition of any ethanol in any RFG covered area. The waiver for El Paso goes until September 16th due to their State Implementation Plan requirements.

*PADD: Petroleum Administration for Defense Districts

-

-

Communications

•□□□□□□□ The Crisis Communication Plan remains activated. EOC Public Information Officer (PIO) continues to work on developing fact sheets on issues regarding the recovery including how to handle household hazardous waste and other debris. Region 6 PIO and Data Management team created a *Region 6 Hurricane Harvey - Public Story Map*. The map is located at this link:
<https://epa.maps.arcgis.com/apps/MapJournal/index.html?appid=fadbae6b2832436fb65ca497bd75b9a6>

•□□□□□□□ EPA issued a news release announcing that Administrator Pruitt approved a request from the State of Texas to continue to waive requirements for fuels in Texas through October 1. <https://www.epa.gov/newsreleases/epa-acts-continue-waiver-fuel-requirements-texas>

Michael Faulkner, Senior Watch Officer

U.S. Environmental Protection Agency

Headquarters Emergency Operations Center

1200 Pennsylvania Ave

Washington, DC 20004

202-564-3850 (24hrs)

eoc.epahq@epa.gov



For Internal Use Only/For Official Use Only

September 18, 2017 12:00 ET

HURRICANE HARVEY MANAGEMENT REPORT

Information contained in this report reflects HQ and regional reporting from the most recently completed operational period as well as other reports provided by HQ, regional and interagency sources.

National Incident Management Objectives

- Objective 1: Ensure that health and safety of the EPA response is considered at all times.
- Objective 2: Establish an incident management structure and processes employing the Incident Command System to enable effective overall management of the event with deployment of resources (staff and equipment) in a rapid, aggressive and well-coordinated manner.
- Objective 3: Ensure prompt Review and Processing of Fuel Waiver requests.
- Objective 4: Prepare for and provide Rapid Assessment of Industrial facilities as requested by the State or under EPA's statutory program responsibilities for CERCLA Superfund, RMP and FRP facilities. Working with our state partners, contact industrial sources within the impacted area to determine their operational status and determine what support can be provided with the monitoring of the start-up of industrial sources.
- Objective 5: Prepare for and provide Rapid Assessment & Technical Assistance Drinking Water & Wastewater facilities as requested by the State or local government. EPA will support our state partners in contacting drinking water and waste water systems.
- Objective 6: Prepare a Sustained Response Plan that outlines the resource and equipment needs for a long duration response.
- Objective 7: Activate the Agency's Crisis Communication Plan to insure effective and efficient coordination of all incident communications.
- Objective 8: Encourage a collaborative federalism approach, where national, state and local governments interact cooperatively and collectively to solve common problems.
- Objective 9: Begin Agency internal and external coordination, under the National Disaster Recovery Framework, regarding Recovery Support Functions in which EPA is likely to be involved.

Executive Summary

- U.S. Representative Culberson (7th District of Texas) is expected to visit Unified Command in Houston on September 18th. The U.S. Coast Guard Director of Incident Management and Preparedness Policy, Dana Tulis, is expected to visit on September 19th and U.S. House Speaker Paul Ryan is expected to visit on September 20th or 21st.
- EPA completed sample collection at 34 Texas Superfund sites potentially impacted by the storm on September 15th. EPA has released 23 post-hurricane Superfund site summaries based on preliminary data on the www.epa.gov/hurricane-harvey website.
- All three branches of Unified Command continue recovering and staging orphan containers for proper disposal:
 - The Corpus Christi branch has transitioned all open sites to the appropriate TCEQ Regional office for closeout;
 - All containers on the staging pad will be transferred to the Houston branch by September 18th before being shipped for disposal. Recovery activities should be completed in 10-20 days; and
 - The Port Arthur/Beaumont branch is projected to complete recovery activities within 5 days.
- Community Liaison teams continue to provide information regarding returning to flooded areas and handling of household waste in the counties of Aransas, San Patricio, Nueces, Wharton, Harris, Jasper, Newton, Montgomery, Fort Bend, Liberty, Brazoria, Galveston, Beaumont, Port Arthur, Jefferson, Orange, Chambers, Matagorda, and Baytown.
- TCEQ requested that FEMA increase EPA's ESF-10 Mission Assignment by \$8.3 million in stages. Once fully approved, this will bring the total funding for assessment and response to \$18.3 million.

Region 6 Significant Activities

The Region 6 Region Emergency Operations Center (REOC) is currently activated and working under a limited Emergency Support Function (ESF) #10 FEMA Mission Assignment (MA). EPA has received MAs for over \$10.3 million for recovery operations to include assisting Texas with drinking water, wastewater, and hazmat recovery operations. FEMA announced plans to fund mission assignments in five-day increments.

Mission Assignment Number	Funding Amount	Description of Assignment
4332DR-TX-EPA-03	\$10,092,000	Region 6 field operations including assessing drinking & waste water infrastructure, implementation of Response Manager tracking system, response to hazardous substance releases and oil discharges.
4332DR-TX-EPA-01	\$275,000	Deployment of EPA to various locations, including but not limited to TX SEOC and the FEMA RRCC to support response operations.
Total	\$10,367,000	

Number of Region 6 Personnel Involved

Personnel	EPA R6 Dallas	FEMA Denton	Texas JFO Austin	TX SEOC Austin	TCEQ Austin	Houston	Corpus Christi	Beaumont/ Port Arthur	Total
Region 6	56	0	2	2	0	53	13	10	136
START	3	0	0	1	0	4	8	9	25
ERRS	0	0	0	0	0	22	2	15	39
Other Contractor	0	0	0	0	0	0	0	0	0
Total	59	0	2	3	0	79	23	34	200

Debris Recovery Operations

A Federal Debris Management Taskforce was established at the JFO in Austin with EPA serving as a member. Joint EPA and TCEQ field observation teams continue to observe debris staging and landfill operations within the hurricane impacted counties in Texas to ensure best practices and program requirements are being met. FEMA estimates debris to total 16.5 million cubic yards. Observations were completed at 81 sites in the Houston area on September 14th and 15th; observations will begin in Corpus Christi on September 18th.

Container Recovery Operations

This chart includes daily and cumulative data on container recovery:

Waste Received at All Staging Pads to Date – Containers and Cylinders					
	Drums [55 gals]	Small Containers [<55 gals]	Large Containers [>55 gals]	Cylinders	Total
9/17/2017	14	23	6	16	59
Total	351	236	32	97	716

Corpus Christi Branch

The Oil/Vessel Discharge Recovery Teams continued to assess open targets and placed removal notification placards on five vessels in Cove Harbor. Emergency Response, Orphan Container Recovery, and Staging Area operations were completed and the assigned teams were demobilized.

Houston Branch

The Air Operations Team conducted an overflight during which they cleared a 55-gallon container located in Bay City, Texas and identified two new sunken vessel targets in Dickinson Bayou.

Beaumont/Port Arthur Branch

Land Recovery Teams collected orphan containers in the Sour Lakes, Orange, Rose City, and Beaumont, Texas areas. The Water Recovery Team collected orphan containers assessed by air operations in the Neches River. A total of 26 containers were recovered by all Port Arthur/Beaumont teams on September 17th.

Emergency and Field Response Operations

Region 6 continues to collect and stage recovered orphan containers. They anticipate completion in Corpus Christi, Houston, and Beaumont over the next 10-20 days.

Daily & Cumulative Summary of Hazard Evaluations/Recovery				
Location	Opened		Closed	
	9/17/2017	Number of Targets	9/17/2017	Cumulative
Corpus Christi	0	5	2	101
Houston	0	8	29	378
Port Arthur/Beaumont	0	13	9	117
NRC Reports	0	0	1	5
Total	0	26	41	601
Note: Open means the target is yet to be recovered. Closed means the target was recovered/left in place or access was denied to collect the item.				

Daily & Cumulative Summary of Spills/Discharges (non-vessels)				
Location	Opened		Closed	
	9/17/17	Number of Facilities/Spills	9/17/17	Cumulative
Corpus Christi	0	0	0	33
Houston	0	1	0	77
Port Arthur/Beaumont	0	6	1	19
NRC Reports	1	14	3	110
Total	1	21	4	239
Note: Open means the target is yet to be recovered/cleaned up. Closed means the target was recovered/cleaned up by a Responsible Party or not found upon return to location.				

Number of Field Team Personnel on September 17 th				
Team Type	Corpus Christi	Houston	Port Arthur/Beaumont	Total
Hazard Evaluation	0	1	1	2
Oil Discharge Assessment	0	2	0	2
ER/Orphan Container Recovery	1	8	3	12
Oil/Vessel Recovery	4	0	0	4
Staging Areas	1	1	1	3
Air Operations	0	1	0	1
Air Monitoring	0	1	0	1
Drinking Water Infrastructure Assessment	0	0	0	0
Wastewater Infrastructure Assessment	0	0	0	0
Total	6	14	5	25

Superfund NPL Sites

- EPA provided oversight to potentially responsible parties (PRPs) and independently collected samples at 34 Texas Superfund sites and 9 Louisiana sites to confirm no releases due to storm impacts. The sampling is part of a longer term assessment that will be used to transition sites back to normal cleanup operations. All preliminary un-validated results for the sites located in Texas have been received while results for the Louisiana sites are expected by September 18th. This data is being posted to www.epa.gov/hurricane-harvey.
- All 43 Federal Superfund sites in the affected area have been assessed. Of these, 41 sites have been cleared, and two sites (San Jacinto Pits and US Oil) require additional follow-up:
 - *San Jacinto Waste Pits*: The responsible party (RP) completed all manual probing activities of the cap on September 14th. On September 15th, the EPA Dive Team collected underwater sediment samples for dioxin/furan analysis in areas where gaps in the cap were found. The PRPs' dive team is collecting sediment samples from the same areas for the same analysis. The RP submitted, and EPA approved the cap repair work plan on September 15th. The RP began maintenance work on September 16th.
 - *US Oil*: Since the time the pump down operations began, after hurricane landfall, a total of 64 truckloads of storm water (approximately 320,000 gallons) have been removed from the Site and disposed of in an off-site permitted facility. As of September 18th, the PRP Group is managing the site under normal operations and conditions.

Air Monitoring

A Trace Atmospheric Gas Analyzer (TAGA) team completed monitoring of neighborhoods and areas around Dow Chemical Company, Valero, Marathon, and Blanchard Refinery facilities in Texas City on September 17th. The team also monitored Phillips 66 Sweeny Refinery, Chevron Phillips Sweeny Old Ocean, and Conoco Phillips San Bernard Terminal in Sweeny, Texas. No monitored readings at any of the Sweeny or Texas City facilities exceeded the TCEQ Air Monitoring Comparison Values short-term screening levels. This team is relocating to Corpus Christi and plans to monitor the following facilities on September 18th: Formosa Plastics, Formosa Plastics Marine terminal, and INVISTA Victoria.

A second TAGA team will be based in Port Arthur and will monitor the following facilities on September 18th: Flint Hills Port Arthur, Total Petrochemicals Port Arthur Refinery, Valero (Premcor) Port Arthur Refinery, Motiva Port Arthur Refinery, Oiltanking - Motiva Port Neches Terminal, Shell Pipeline - Crude Product, and Huntsman Petrochemical Port Neches Facility.

Drinking Water/Wastewater Assessments

As of September 14th, drinking water and wastewater assessments have been completed. The remaining systems have been transitioned to the Texas Commission on Environmental Quality (TCEQ) for completion. Of the 2,022 systems designated for follow up, EPA's collaborative work with the State has ensured the return of 1,945 community water systems to fully operational status. These systems cover 99% of the population in the greater Houston area (7.23 out of 7.26 million served).

EPA Headquarters Significant Activities:

The HQ EOC is activated to Level 1 in support of the Region 6 response for Hurricane Harvey. The HQ EOC is coordinating with Region 6 and other Federal agencies. Personnel have also deployed to the FEMA NRCC to staff the ESF-10 desk. EPA Senior Management that comprise the Policy Coordinating Committee (PCC) developed and issued senior management objectives that form the basis of field strategy and tactics in response to Harvey.

Headquarters Mission Assignments

Mission Assignment Number	Funding Amount	Description of Assignment
4332DR-TX-EPA-01	\$10,000	FEMA HQ ESF-10 Desk Support
4332DR-TX-EPA-02	\$40,000	FEMA HQ ESF-10 Desk Support
Total	\$50, 000	

Number of HQ Personnel Involved in the EOC

Personnel	AO	OAR	OARM	OCFO	OCSPP	OECA	OEI	OGC	OLEM	ORD	OW	PIO	ATSDR	Totals
Employees	0	0	0	0	1	1	0	1	13	1	1	1	1	20
Contractors	0	0	0	0	0	0	3	0	3	0	0	0	0	6
Total	0	0	0	0	1	1	3	1	16	1	1	1	1	26

Fuel Waivers

EPA issued No Action Assurance (NAA) Extensions to TCEQ on September 15th, on Loading of Tank Fuel Trucks at Petroleum Distribution Terminals, Landing Roofs on Gasoline Storage Vessels, and the Use of Vapor Recovery Systems. The extensions were provided until September 22nd at 11:59 PM CDT. The NAA letters are available to the public on www.epa.gov/hurricane-harvey and a press release was issued highlighting these three NAA letters.

Affected State	Waiver Request	Date Received	Status Talking Point	Waiver Response
Reid Vapor Pressure Requirements Waivers				
TX	Letter from TCEQ requesting a waiver of the RVP, RFG and TxLED standards in the Governor's Disaster Proclamation	8/25/17	Extended to October 1st	https://www.epa.gov/newsreleases/epa-acts-continue-waiver-fuel-requirements-texas
LA	Letter from LA governor requesting a waiver of the low RVP requirements.	8/28/17	Granted on 8/28/17	https://www.epa.gov/sites/production/files/2017-08/documents/louisianafuelswaiver082817.pdf
AR	The state is drafting a waiver request to temporarily waive the requirement for low 9.0lb RVP fuel.	8/31/17	N/A	N/A
OK	A statewide low RVP fuel waiver request was submitted and then the request was amended.	8/28/17	8/30/17	https://www.epa.gov/enforcement/second-multi-state-fuels-waivers
Dyed NRLM Diesel Fuel Waiver				
TX	Letter from TX comptroller requesting a waiver of using dyed NRLM diesel fuel in motor vehicles.	8/29/17	Granted on 8/29/17; IRS expanded to cover all of TX on 9/3/17	https://www.epa.gov/enforcement/texas-diesel-waiver
Low Volatility Conventional Gasoline and Reformulated Gasoline (RFG)				
Multi State*	<p>*CT, ME, MA, NH, RH, VT, DE, DC, MD, NJ, NY, and PA, FL, GA, NC, SC, VA, and WV; all mid-western states located in *PADD 2 - IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, SD, OH, OK, TN, and WI; and all Gulf coast states located in PADD 3 -AL, AR, LA, MS, NM, and TX</p> <p>Issuance of waivers based on requests for the allowance of regulated parties within the listed states to produce, sell, or distribute conventional winter gasoline (including BOBs) with an RVP of 11.5 psi before the addition of any ethanol in any RFG covered area. The waiver for El Paso goes until September 16th due to their State Implementation Plan requirements.</p>	8/30/17	Expired; no longer needed	https://www.epa.gov/enforcement/second-multi-state-fuels-waivers

*PADD: Petroleum Administration for Defense Districts

Communications

- The Crisis Communication Plan remains activated. EOC Public Information Officer (PIO) continues to work on developing fact sheets on issues regarding the recovery including how to handle household hazardous waste and other debris. Region 6 PIO and Data Management team created a *Region 6 Hurricane Harvey - Public Story Map*. The map is located at this link:
<https://epa.maps.arcgis.com/apps/MapJournal/index.html?appid=fadbae6b2832436fb65ca497bd75b9a6>
- EPA issued a news release announcing that Administrator Pruitt approved a request from the State of Texas to continue to waive requirements for fuels in Texas through October 1. <https://www.epa.gov/newsreleases/epa-acts-continue-waiver-fuel-requirements-texas>

To: Gray, David[gray.david@epa.gov]
Cc: Seager, Cheryl[Seager.Cheryl@epa.gov]; Gilrein, Stephen[gilrein.stephen@epa.gov]; Welton, Patricia[Welton.Patricia@epa.gov]; Peycke, Mark[Peycke.Mark@epa.gov]; Edlund, Carl[Edlund.Carl@epa.gov]; Phillips, Pam[phillips.pam@epa.gov]
From: Payne, James
Sent: Fri 1/26/2018 8:59:25 PM
Subject: DOJ civil enforcement referrals
[Referrals 01-19-18 \(002\).docx](#)
[Referrals Not Concluded excluding SF 1-19-2018cmo \(002\).xlsx](#)

Forwarding attached lists of open DOJ civil referrals for regulatory enforcement and Superfund.

To: Gray, David[gray.david@epa.gov]; Idsal, Anne[idsal.anne@epa.gov]
From: Seager, Cheryl
Sent: Fri 1/26/2018 8:58:34 PM
Subject: Information request chart
Copy of Information Request List from Share Drive Read Files.xlsx

Anne and David,

I've attached a spreadsheet with all of our information requests, covering the last 5 years. The chart reflects all media, and the current status of the requests. Please let me know if you have any questions.

Cheryl

Cheryl Seager | Director | Compliance Assurance and Enforcement Division | EPA Region 6 | Mail Code 6EN | 1445
Ross Avenue | Suite 1200 | Dallas, TX 75202 | Phone 214-665-3114 |

To: Gray, David[gray.david@epa.gov]
Cc: Seager, Cheryl[Seager.Cheryl@epa.gov]; Gilrein, Stephen[gilrein.stephen@epa.gov]; Welton, Patricia[Welton.Patricia@epa.gov]; Edlund, Carl[Edlund.Carl@epa.gov]; Phillips, Pam[phillips.pam@epa.gov]; Peycke, Mark[Peycke.Mark@epa.gov]; Harrison, Ben[Harrison.Ben@epa.gov]
From: Payne, James
Sent: Sat 1/20/2018 2:24:14 AM
Subject: DOJ civil enforcement referrals - pending regulatory and Superfund cases
[Referrals Not Concluded excluding SF 1-19-2018.xlsx](#)
[Referrals 01-19-18 \(002\).docx](#)

David,

Consistent with the RA's request at Wed senior staff meet, and our discussion today, attached are lists for open DOJ civil enforcement referrals:

- list of 34 regulatory cases (earlier today Patricia forwarded this list which Connie provided)
 - o 6 have filed Complaints and 4 of these have proposed Consent Decrees lodged for public comment
 - o 28 are unfiled and they generally are in negotiations
- list of 11 Superfund enforcement/cost recovery cases.

We can discuss next steps with you and the RA as to these open referrals, including as to recusal screening.

Jim

To: Gray, David[gray.david@epa.gov]
From: Stenger, Wren
Sent: Wed 3/1/2017 9:07:41 PM
Subject: Formosa LA petrochemical plant St James Parish UPDATE

Formosa applied for a permit with LDEQ September 28, 2015. The review of the application has been suspended by LDEQ with the agreement of the company. The company is working on updates to its application.

From: Stenger, Wren
Sent: Wednesday, March 01, 2017 12:39 PM
To: Gray, David <gray.david@epa.gov>
Cc: Price, Lisa <Price.Lisa@epa.gov>; Stenger, Wren <stenger.wren@epa.gov>
Subject: Formosa LA petrochemical plant St James Parish

Nothing for EPA or state on RCRA.

For Air, we are sorting through pending applications on the air permit side in both LA and Texas (Point Comfort). I know LDEQ has had issues getting the “final” applications/design over the last couple of years for their projects. Maybe they finally have everything lined up. We obviously will not have an active role in permit development. These expansion permitting in air will be led by LDEQ and TCEQ.

From: Gray, David
Sent: Wednesday, March 01, 2017 7:45 AM
To: Coleman, Sam <Coleman.Sam@epa.gov>; Payne, James <payne.james@epa.gov>; Stenger, Wren <stenger.wren@epa.gov>; Honker, William <honker.william@epa.gov>; Gray, David <gray.david@epa.gov>
Subject: Formosa expects faster ok for U.S. petrochemical plant under new EPA chief (LOUISIANA)

If you have anything on this project – please let me know.

David

Formosa expects faster ok for U.S. petrochemical plant under new EPA chief

By Faith Hung | TAIPEI

Formosa Petrochemical Corp. expects faster approval for a planned \$9.4 billion petrochemical plant in the U.S. state of Louisiana under the administration of President Donald Trump, the company's chairman said on Wednesday.

The U.S. Environmental Protection Agency (EPA) is likely to roll back some of its regulations after the appointment as head last month of Scott Pruitt, who sued the agency multiple times as Oklahoma state attorney general.

The company should benefit from less stringent environmental regulations under the Trump administration, Formosa Petrochemical Chairman Chen Bao-lang said. A subsidiary of Formosa's parent company admitted to massive pollution in Vietnam last year.

"We are more optimistic about the investment," Chen told Reuters in an interview in the group's headquarters in Taipei. "At least the obstacles will be fewer... We're aiming to get an air permit in August 2018."

Formosa Petrochemical is part of Taiwanese conglomerate Formosa Plastics Group, which has production facilities across Taiwan, China, the United States and Vietnam.

Another Formosa subsidiary, Formosa Ha Tinh Steel, paid \$500 million in damages in Vietnam after it admitted last year that it polluted more than 200 km (125 miles) of coastline in April,

killing more than 100 tonnes of fish and devastating the environment, jobs and economies of four provinces.

PRODUCTION TO START ONE YEAR EARLIER

The petrochemical plant will be located in Louisiana's St. James Parish. The group first submitted its application to the Louisiana state government in September 2015.

"Trump has said his priority is the U.S. economy first, and then environmental protection," said the chairman, who is also an executive member of the group's board. "So far everything is running smoothly."

Formosa is now hoping to start production in 2021, one year ahead of schedule, after getting the permit, he said.

Formosa Petrochemical is leading the project along with another member of the group, Formosa Chemicals & Fibre Corp..

The first phase of the project includes an ethane cracker with an annual capacity of 1.2 million metric tonnes and 600,000 metric tonnes of propylene. In the second phase, slated for construction by March 2025, it will build another ethylene plant with annual capacity of 1.2 million tonnes, Chen said.

The group is also expanding its U.S. production facilities in Texas with a \$5 billion investment to increase its output of ethylene glycol, scheduled for completion in 2018.

To: Gray, David[gray.david@epa.gov]
Cc: Price, Lisa[Price.Lisa@epa.gov]; Stenger, Wren[stenger.wren@epa.gov]
From: Stenger, Wren
Sent: Wed 3/1/2017 6:38:37 PM
Subject: Formosa LA petrochemical plant St James Parish

Nothing for EPA or state on RCRA.

For Air, we are sorting through pending applications on the air permit side in both LA and Texas (Point Comfort). I know LDEQ has had issues getting the “final” applications/design over the last couple of years for their projects. Maybe they finally have everything lined up. We obviously will not have an active role in permit development. These expansion permitting in air will be led by LDEQ and TCEQ.

From: Gray, David
Sent: Wednesday, March 01, 2017 7:45 AM
To: Coleman, Sam <Coleman.Sam@epa.gov>; Payne, James <payne.james@epa.gov>; Stenger, Wren <stenger.wren@epa.gov>; Honker, William <honker.william@epa.gov>; Gray, David <gray.david@epa.gov>
Subject: Formosa expects faster ok for U.S. petrochemical plant under new EPA chief (LOUISIANA)

If you have anything on this project – please let me know.

David

Formosa expects faster ok for U.S. petrochemical plant under new EPA chief

By Faith Hung | TAIPEI

Formosa Petrochemical Corp. expects faster approval for a planned \$9.4 billion petrochemical plant in the U.S. state of Louisiana under the administration of President Donald Trump, the company's chairman said on Wednesday.

The U.S. Environmental Protection Agency (EPA) is likely to roll back some of its regulations after the appointment as head last month of Scott Pruitt, who sued the agency multiple times as Oklahoma state attorney general.

The company should benefit from less stringent environmental regulations under the Trump administration, Formosa Petrochemical Chairman Chen Bao-lang said. A subsidiary of Formosa's parent company admitted to massive pollution in Vietnam last year.

"We are more optimistic about the investment," Chen told Reuters in an interview in the group's headquarters in Taipei. "At least the obstacles will be fewer... We're aiming to get an air permit in August 2018."

Formosa Petrochemical is part of Taiwanese conglomerate Formosa Plastics Group, which has production facilities across Taiwan, China, the United States and Vietnam.

Another Formosa subsidiary, Formosa Ha Tinh Steel, paid \$500 million in damages in Vietnam after it admitted last year that it polluted more than 200 km (125 miles) of coastline in April, killing more than 100 tonnes of fish and devastating the environment, jobs and economies of four provinces.

PRODUCTION TO START ONE YEAR EARLIER

The petrochemical plant will be located in Louisiana's St. James Parish. The group first submitted its application to the Louisiana state government in September 2015.

"Trump has said his priority is the U.S. economy first, and then environmental protection," said the chairman, who is also an executive member of the group's board. "So far everything is running smoothly."

Formosa is now hoping to start production in 2021, one year ahead of schedule, after getting the permit, he said.

Formosa Petrochemical is leading the project along with another member of the group, Formosa Chemicals & Fibre Corp..

The first phase of the project includes an ethane cracker with an annual capacity of 1.2 million metric tonnes and 600,000 metric tonnes of propylene. In the second phase, slated for construction by March 2025, it will build another ethylene plant with annual capacity of 1.2 million tonnes, Chen said.

The group is also expanding its U.S. production facilities in Texas with a \$5 billion investment to increase its output of ethylene glycol, scheduled for completion in 2018.

To: Gray, David[gray.david@epa.gov]
From: Seager, Cheryl
Sent: Tue 7/11/2017 1:40:25 PM
Subject: information requests

Hey David – we had 2 on the 7/3/17 weekly report – Lyondell and Formosa. Are they ok to send out?



Cheryl Seager | Director | Compliance Assurance and Enforcement Division | EPA Region 6 | Mail Code 6EN | 1445
Ross Avenue | Suite 1200 | Dallas, TX 75202 | Phone 214-665-3114 |

To: Gray, David[gray.david@epa.gov]
Cc: Seager, Cheryl[Seager.Cheryl@epa.gov]; Gilrein, Stephen[gilrein.stephen@epa.gov]; Edlund, Carl[Edlund.Carl@epa.gov]; Phillips, Pam[phillips.pam@epa.gov]; Peycke, Mark[Peycke.Mark@epa.gov]; Welton, Patricia[Welton.Patricia@epa.gov]
From: Payne, James
Sent: Fri 2/2/2018 11:52:35 PM
Subject: Fwd: DOJ civil enforcement referrals
[Referrals 01-19-18 \(002\).docx](#)
[ATT00001.htm](#)
[Referrals Not Concluded excluding SF 1-19-2018cmo \(002\).xlsx](#)
[ATT00002.htm](#)

David - for ease of reference, here are the two charts forwarded for the RA on Fri Jan 26 for judicial regulatory and Superfund cases.

Sent from my iPhone

Begin forwarded message:

From: "Payne, James" <payne.james@epa.gov>
Date: January 26, 2018 at 3:59:25 PM EST
To: "Gray, David" <gray.david@epa.gov>
Cc: "Seager, Cheryl" <Seager.Cheryl@epa.gov>, "Gilrein, Stephen" <gilrein.stephen@epa.gov>, "Welton, Patricia" <Welton.Patricia@epa.gov>, "Peycke, Mark" <Peycke.Mark@epa.gov>, "Edlund, Carl" <edlund.carl@epa.gov>, "Phillips, Pam" <phillips.pam@epa.gov>
Subject: DOJ civil enforcement referrals

Forwarding attached lists of open DOJ civil referrals for regulatory enforcement and Superfund.

To: Idsal, Anne[idsal.anne@epa.gov]; Gray, David[gray.david@epa.gov]
Cc: Payne, James[payne.james@epa.gov]; Welton, Patricia[Welton.Patricia@epa.gov]; Overbay, Connie[Overbay.Connie@epa.gov]; Gilrein, Stephen[gilrein.stephen@epa.gov]
From: Seager, Cheryl
Sent: Fri 1/26/2018 9:04:55 PM
Subject: FW: Consent Decrees not Closed Report
Judicial Conclusions not Closed in ICIS excluding SF 1-19-2018.xlsx
OPENCDC SUMMARY.docx

Anne and David,

I've attached a narrative regarding open consent decrees, along with an excel spreadsheet with the cases listed. You will need to click on the tab at the bottom of the spreadsheet to open the case list. The list includes both active CDs and CDs that are concluded but haven't gone through the termination process with DOJ.

Please let me know if you have any questions.

Cheryl

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Gray, David
Sent: Mon 9/18/2017 1:25:18 PM
Subject: am report
09-18-2017 0700 Update.pdf

To: Coleman, Sam[Coleman.Sam@epa.gov]; Payne, James[payne.james@epa.gov]; Stenger, Wren[stenger.wren@epa.gov]; Honker, William[honker.william@epa.gov]; Gray, David[gray.david@epa.gov]
From: Gray, David
Sent: Wed 3/1/2017 1:45:14 PM
Subject: Formosa expects faster ok for U.S. petrochemical plant under new EPA chief (LOUISIANA)

If you have anything on this project – please let me know.

David

Formosa expects faster ok for U.S. petrochemical plant under new EPA chief

By Faith Hung | TAIPEI

Formosa Petrochemical Corp. expects faster approval for a planned \$9.4 billion petrochemical plant in the U.S. state of Louisiana under the administration of President Donald Trump, the company's chairman said on Wednesday.

The U.S. Environmental Protection Agency (EPA) is likely to roll back some of its regulations after the appointment as head last month of Scott Pruitt, who sued the agency multiple times as Oklahoma state attorney general.

The company should benefit from less stringent environmental regulations under the Trump administration, Formosa Petrochemical Chairman Chen Bao-lang said. A subsidiary of Formosa's parent company admitted to massive pollution in Vietnam last year.

"We are more optimistic about the investment," Chen told Reuters in an interview in the group's headquarters in Taipei. "At least the obstacles will be fewer... We're aiming to get an air permit in August 2018."

Formosa Petrochemical is part of Taiwanese conglomerate Formosa Plastics Group, which has production facilities across Taiwan, China, the United States and Vietnam.

Another Formosa subsidiary, Formosa Ha Tinh Steel, paid \$500 million in damages in Vietnam after it admitted last year that it polluted more than 200 km (125 miles) of coastline in April, killing more than 100 tonnes of fish and devastating the environment, jobs and economies of four provinces.

PRODUCTION TO START ONE YEAR EARLIER

The petrochemical plant will be located in Louisiana's St. James Parish. The group first submitted its application to the Louisiana state government in September 2015.

"Trump has said his priority is the U.S. economy first, and then environmental protection," said the chairman, who is also an executive member of the group's board. "So far everything is running smoothly."

Formosa is now hoping to start production in 2021, one year ahead of schedule, after getting the permit, he said.

Formosa Petrochemical is leading the project along with another member of the group, Formosa Chemicals & Fibre Corp..

The first phase of the project includes an ethane cracker with an annual capacity of 1.2 million metric tonnes and 600,000 metric tonnes of propylene. In the second phase, slated for construction by March 2025, it will build another ethylene plant with annual capacity of 1.2 million tonnes, Chen said.

The group is also expanding its U.S. production facilities in Texas with a \$5 billion investment to increase its output of ethylene glycol, scheduled for completion in 2018.

To: Idsal, Anne[idsal.anne@epa.gov]
From: Gray, David
Sent: Tue 2/20/2018 10:01:55 PM
Subject: Fwd: Environmental Seminar | RSVP List & Final Details
[2018 Environmental Seminar RSVP List \(as of 2-16-2018\).xlsx](#)
[ATT00001.htm](#)
[2018 Environmental Seminar Agenda.pdf](#)
[ATT00002.htm](#)

Sent from my iPhone

Begin forwarded message:

From: <molly.cagle@bakerbotts.com>
Date: February 16, 2018 at 11:23:18 AM CST
To: <Wang.Jonathan@epa.gov>, <gray.david@epa.gov>
Subject: Environmental Seminar | RSVP List & Final Details

Hey guys.

Here's the final RSVP list for the conference next week and the whole agenda. DON'T PANIC. We start serving lunch at 11:30 and Anne doesn't come on til noon.

Call me anytime with any questions, etc. I will be in NYC Sunday and Monday and enroute to Houston Tuesday PM, so there will be windows where you can't reach me, but leave a message and I will respond as soon as I can.

I'm sure you guessed this, but the crowd tends to be business attire. At least it's not a Friday! I hate having to dress up on Fridays.

See you there.

Molly

Molly Cagle
Partner, Baker Botts
98 San Jacinto Blvd. #1500
Austin, TX 78701

molly.cagle@bakerbotts.com
512-322-2535 (office)
512-322-3635 (fax)
512-423-8552 (cell)

Confidentiality Notice:

The information contained in this email and any attachments is intended only for the recipient[s] listed above and may be privileged and confidential. Any dissemination, copying, or use of or reliance upon such information by or to anyone other than the recipient[s] listed above is prohibited. If you have received this message in error, please notify the sender immediately at the email address above and destroy any and all copies of this message.

To: Seager, Cheryl[Seager.Cheryl@epa.gov]
From: Gray, David
Sent: Tue 7/11/2017 1:44:27 PM
Subject: Re: information requests

Yes

Sent from my iPhone

On Jul 11, 2017, at 8:40 AM, Seager, Cheryl <Seager.Cheryl@epa.gov> wrote:

Hey David – we had 2 on the 7/3/17 weekly report – Lyondell and Formosa. Are they ok to send out?

<image001.jpg> <image002.jpg>

Cheryl Seager | Director | Compliance Assurance and Enforcement Division | EPA Region 6 | Mail Code 6EN |
1445 Ross Avenue | Suite 1200 | Dallas, TX 75202 | Phone 214-665-3114 |

To: Idsal, Anne[idsal.anne@epa.gov]
From: Gray, David
Sent: Fri 2/9/2018 12:04:12 PM
Subject: Fwd: Morning Energy: Shutdown: We hardly knew ye — EPA shuts Vegas research facilities — Canadians file to block solar tariffs

Reply-To: "POLITICO subscriptions" <reply-fe8913737166037473-630326_HTML-814497992-1376319-0@politicoemail.com>

By Kelsey Tamborrino | 02/09/2018 05:53 AM EDT

With help from Anthony Adragna, Ben Lefebvre, Annie Snider, Eric Wolff and Doug Palmer

WAS IT JUST A NIGHTMARE? After cutting it close to the wire, Congress passed a massive budget deal with various energy-related add-ons this morning. The Senate passed the bill earlier Friday morning, after Sen. [Rand Paul](#) [refused to allow](#) the measure to proceed Thursday without a standalone vote on an amendment related to the debt ceiling, forcing the government into shutdown mode for the second time in a matter of weeks, if only briefly. The package cleared the House a little after 5:30 a.m. and now heads to President Donald Trump, who has said he will sign it. The bill, [H.R. 1892 \(115\)](#), extends government funding through March 23 to give lawmakers time to write an omnibus appropriations bill for the rest of the year, and it sets top-line budget targets for the next two years. It also provides disaster relief funding and renews a number of tax extenders.

ICYMI, [here's](#) a reminder of what's in the budget bill:

- Most notably, the bill would reinstate several energy tax extenders and modify credits for nuclear energy and carbon capture projects, Pro's Nick Juliano [reports](#).
- In a win for nuclear proponents — notably Georgia Power's Vogtle plant — the bill that would eliminate a 2020 deadline to claim a tax credit for new nuclear power plants.
- The legislation includes the sale of up to \$350 million of crude from the Strategic Petroleum Reserve to fund modernization efforts, as well requiring the sale of an additional 100 million barrels from the tapped reserve to help offset cost.
- Reinstates the 9-cent-per-barrel tax on oil to pay for spill cleanups. The tax, which goes to the Oil Spill Liability Trust Fund, expired at the end of last year. It would go back into effect starting March 1.

THE FALLOUT: The Congressional Budget Office said Thursday the budget deal would cost nearly \$320 billion over a decade and would reduce mandatory spending by

nearly \$47 billion over 10 years even as it balloons discretionary spending, Pro's Sarah Ferris [reports](#). (Read the CBO score [here](#).) And the energy tax provisions that made their way into Congress' budget deal would cost more than \$11 billion over the next decade, according to [estimates](#) from the Joint Committee on Taxation. The biggest portion of that is the retroactive, one-year extension of a set of income and excise tax credits for biodiesel and renewable diesel. Read the further breakdown of the cost [here](#).

IT'S UP TO YOU: Senate Finance ranking member [Ron Wyden](#) passed the buck when asked whether the tax extenders in the budget deal would be Congress' last bite at the apple in that area. "You gotta ask [House Ways and Means] Chairman [[Kevin Brady](#)]. His chickens are coming home to roost," he told reporters. Wyden's referring to Brady's promise the tax bill would do away with a host of tax breaks and exemptions for specific industries permanently, which didn't come to pass in the final version.

WELCOME TO FRIDAY! I'm your host Kelsey Tamborrino, and Entergy's Rob Hall was first to guess 16 nations participated in the first Winter Olympics. For today: In what year did the first official congressional override of a presidential veto occur? Send your tips, energy gossip and comments to ktamborrino@politico.com, or follow us on Twitter [@kelseytam](#), [@Morning_Energy](#) and [@POLITICOPro](#).

OPTIMISM OVER WHEELER: Senate EPW Chairman [John Barrasso](#) is exuding confidence EPA deputy nominee Andrew Wheeler will escape the fates of Kathleen Hartnett White and Michael Dourson by getting a floor vote in the near future. "I think we'll get there, yes I do," he told ME. "Sen. [[Tom](#)] [Carper](#) and I are working together to make sure it happens." Remember Carper [indicated](#) he wanted some additional information from Pruitt before considering a time agreement to fast-track Wheeler's floor consideration.

EPA CLOSES VEGAS RESEARCH FACILITIES: EPA's research division will shutter all operations at its Las Vegas laboratory by the end of the fiscal year, Pro's Alex Guillén reports via a Feb. 6 [email](#) from the head of EPA's National Exposure Research Laboratory. "The drivers behind the decision are the continued pressure to reduce the amount of federally leased space by consolidating operations into federally owned space and to reduce our overall operational costs moving forward," Tim Watkins wrote in the email.

EPA confirmed the closure: "EPA is consolidating services into EPA-owned buildings in Cincinnati, Ohio and Research Triangle Park, NC. This decision will save taxpayer dollars and streamline layers," EPA spokeswoman Liz Bowman said in a statement. The Las Vegas staff can relocate to another EPA facility this summer, she said. Read [more](#).

CANADIANS FILE TO BLOCK SOLAR TARIFF: A trio of Canadian solar manufacturers this week [challenged](#) the Trump administration's imposition of tariffs in the International Court of Trade. The companies say the tariff violates NAFTA, and the majority of the International Trade Commission found that Canadian solar

manufacturers did not constitute a sufficient quantity of U.S. solar imports as to cause injury. They call on the court to enjoin the tariffs and for an expedited resolution of the case.

Why now? Customs and Border Protection began collecting the tariff on Wednesday, thus creating the injury that allows the Silfab Solar Inc., Heliene Inc. and Canada Solar Solutions Inc. to file their complaint.

AND THE EU WANTS A WORD, TOO: The European Union on Thursday became the fourth WTO member to formally ask the United States to discuss compensation for trade losses that result from President Donald Trump's safeguard measures on solar equipment. It joined China, Taiwan and South Korea, which have already made a similar request. Article 8.1 of the WTO Agreement on Safeguards requires countries proposing to impose a safeguard measure, like Trump's restrictions on solar and washing machine imports, to compensate other WTO members for trade losses. That could be in the form of reduced duties on products of interest to those countries.

If no agreement is reached on compensation within 30 days of their requests, the EU, China, Taiwan and South Korea could begin proceedings to impose retaliatory tariffs on the United States. But those tariffs could not be imposed unless the parties prove to a WTO dispute settlement panel that the United States applied the restrictions in a way that violated the safeguards agreement.

BY THE POWER VESTED IN PERRY: Energy Secretary Rick Perry is considering using his authority under Section 202 of the Federal Power Act to provide emergency compensation for FirstEnergy Solutions coal-fired power plants that are in danger of shutting, Bloomberg reports. After Perry's plan to bail out coal plant in the name of grid resiliency failed to win the support of FERC, the Department is considering this option, people familiar with the option told the newswire. Agency spokeswoman Shaylyn Hynes denied the report, saying "that is not correct information," but declined to provide details. Coal magnate Bob Murray, whose company Murray Energy sells coal to some of the First Energy plants, has called on the administration to the power under Section 202 to order the power plants to operate. Read the story here.

WOTUS OPPONENTS PUT BACKUP PLAN IN PLACE: Critics of the Obama administration's controversial water rule are mounting a double-pronged attack in a bid to keep the regulation from going into effect now that an appellate court stay freezing the rule could be lifted as soon as next week. While the Trump administration has moved to delay the 2015 rule administratively — a move that legal experts say could be on shaky ground — industry groups from the American Farm Bureau Federation to the American Petroleum Institute to the National Home Builders Association this week asked the U.S. District Court for the Southern District of Texas to issue a nationwide preliminary injunction for the rule. Pointing to the multiple steps the Trump administration is taking with respect to the rule and the many lawsuits expected over them, the groups argue that they are facing "paralyzing uncertainty" that could last for years and risk not only civil fines but also criminal charges for acting in the meantime.

While the Trump administration is apt to agree with the industry groups, there will be someone in court to oppose the injunction request: The Natural Resources Defense Council and the National Wildlife Federation have both intervened in the case.

DOC OF THE DAY: House Democrats unveiled their own infrastructure plan Thursday, ahead of the White House plan expected to arrive Monday with Trump's budget plan. Read it [here](#).

WHERE'S RYAN ZINKE? The Interior secretary will make a "major conservation announcement" today at the Western Conservation and Hunting Expo in Salt Lake City.

— **EPA Administrator Scott Pruitt will meet with** the president today at 3:30 p.m.

WEST COASTING: The California Coastal Commission joins the chorus of West Coast regulators telling the Interior Department to cool its jets on opening the Pacific to oil and gas drilling. The commission, which oversees the use of public coastal regions, approved [a letter](#) addressed to BOEM reminding that agency of the oil spill that occurred in the waters near Santa Barbara in 1969. It now joins California Gov. Jerry Brown, Attorney General Xavier Becerra and others state lawmakers in pressuring Zinke to give it the same treatment he tried giving Florida and taking it out of the offshore drilling plan proposal. "If offshore drilling poses a rise to Florida's economy, the risk to California's is three times greater," the commission's chair tells Interior.

METHANE ANNOUNCEMENT ON TAP: An official announcement on Interior's planned changes to the Obama-era methane rule could be released soon, Pro's Ben Lefebvre reports. The agency's proposed change cleared OMB on Thursday, according to [the agency's website](#). Interior has made clear it intends to roll back or significantly soften the BLM rule on methane emissions from wells and pipelines that was finalized in November 2016. Read [more](#).

LAW AND ORDER: EPA: EPA published its enforcement report on Thursday for fiscal 2017, calling last year one of its best over the last decade on enforcement — though figures were bumped up by the Volkswagen emissions cheating case that started during the Obama administration, Pro's Alex Guillén [reports](#). EPA secured \$20 billion from companies to fund pollution controls and remediation as part of enforcement agreements. Of that, nearly \$16 billion was connected to the Volkswagen scandal. It was the second-highest relief level in a decade, behind only 2011.

The agency also assessed administrative or judicial penalties of \$1.6 billion last year — again, the second-highest year in a decade, behind 2016 when the figures were boosted by a \$5.7 billion penalty against BP over its Gulf of Mexico oil spill. Read the report [here](#).

GOVERNORS CALL OUT REORG PLAN: A bipartisan group of Western state governors say Zinke did not consult them about his plans for reorganizing the agency, the Associated Press reports. In a letter dated Feb. 1 from the Western Governors Association, the group says they had asked Zinke in April 2017 to be consulted on any reorganization of the department and said the secretary had not sought out their views. A spokesman for the group told the AP they still haven't received a response from Zinke as of Thursday. More from AP [here](#) and read the letter [here](#).

BLOWING IN THE WIND: AT&T [on Thursday said](#) it would purchase 520 megawatts of wind power through two agreements with NextEra Energy Resources subsidiaries — 220 MW of power will come from the Minco V Wind Farm in Oklahoma and 300 MW from a wind farm in Webb and Duval Counties in Texas. The telecom company touted the deal as "one of the largest corporate renewable energy purchases in the U.S," and comes as part of its goal "to develop and leverage technology solutions that enable carbon savings 10 times the footprint of our operations by 2025."

SKI PATROL: New analysis by the Climate Impact Lab finds the number of days at or below freezing in some of the most popular U.S. ski towns will decline by weeks — or even a month — within 20 years. Read the analysis [here](#).

MAIL CALL: More than 100 people from communities suffering from PFCs in their water signed [a letter](#) Thursday to congressional appropriators demanding the protection of EPA's Integrated Risk Information System program in the fiscal 2018 funding bill.

— **New York Sen. [Kirsten Gillibrand](#) and Rep. [Louise Slaughter](#)** launched a bipartisan effort Thursday to try to get the administration to exempt New York from the Trump administration's offshore drilling plan. The letter was joined by more than 20 members of the House and Senate. Read it [here](#).

— **Sen. [Bernie Sanders](#) sent a letter to the president Thursday** urging him to fund the Low Income Home Energy Assistance Program in his upcoming budget, by no less than \$5.1 billion. Read it [here](#).

MOVER, SHAKER: Michelle DePass, who was assistant EPA administrator for international and tribal affairs during former President Barack Obama's first term, has been named president and CEO of Meyer Memorial Trust in Oregon.

QUICK HITS

— How to read between the lines when Pruitt talks about climate science, [The New York Times](#).

— Drilling foes, supporters say Florida still in play, [News4Jax](#).

— PG&E's federal tax break would go to customers under new bill, [San Francisco](#)

Chronicle.

— Canada trims pipeline reviews as industry seeks more details, Bloomberg.

— Trump DOJ passes on perjury prosecution of ex-chairman, E&E News.

— Forest Service consents to mineral drilling near volcano, The Daily News.

HAPPENING TODAY

8:30 a.m. — Nuclear Regulatory Commission meeting of the Advisory Committee on Reactor Safeguards, 11545 Rockville Pike

9:00 a.m. — Johns Hopkins University hosts workshop on energy and climate issues, 1619 Massachusetts Avenue

12:00 p.m. — The National Capital Chapter of the U.S. Energy Economists hosts its February lunch, 425 7th St NW

12:00 p.m. — R Street and CAP discussion on conservation and the 2018 farm bill, Congressional Meeting Room South

THAT'S ALL FOR ME!

To view online:

<https://www.politicopro.com/newsletters/morning-energy/2018/02/shutdown-we-hardly-knew-ye-098003>

Stories from POLITICO Pro

GOP rips Rand for shutdown Back

By Burgess Everett | 02/08/2018 02:44 PM EDT

Rand Paul took a stand, consequences be damned. And Senate Republicans are livid about it.

After driving the government into a brief shutdown over his demand for an amendment to cut government spending, the Kentucky Republican took friendly fire from a significant number of his Republican colleagues for delaying an inevitable passage vote in the Senate. They accused the senator of misusing the Senate's time for no real reason other than to draw attention himself.

"It's a colossal waste of time," said Sen. John Thune (R-S.D.). "He never gets a result."

"He's tilting at windmills. Don Quixote, you know," said Sen. Richard Shelby (R-Ala.).

The Paul-driven shutdown, however short it may be, was sparked by the libertarian-leaning senator's insistence that Senate Majority Leader Mitch McConnell (R-Ky.) grant him a vote to amend a budget deal that includes more than \$300 billion in new spending over two years. McConnell refused, reasoning that would open up the bill to too many amendments. In turn, Paul declined to allow a vote before midnight, when government funding expired.

Asked if he's worried about singlehandedly inheriting the blame for a shutdown, Paul replied: "No. I think it's an important enough thing that we should have a discussion over."

"Somebody's got to stand up and fight," Paul said in an interview.

While Paul received some praise from allies like Sens. Ted Cruz (R-Texas) and Mike Lee (R-Utah) for his latest stand, several Republican senators criticized him on the Senate floor. Even McConnell got in on the action, reminding the Senate that President Donald Trump supports the bill and Paul "does not join the president in supporting the bill."

After the midnight deadline, McConnell introduced Rep. Thomas Massie (R-Ky.), a Paul ally, to a pair of senators on the Senate floor with a trademark crack about Paul's current low standing among congressional Republicans.

"I want to introduce you to a congressman who likes the senator from Kentucky," McConnell said with a grin.

As soon as Paul began speaking, McConnell left the Senate floor. Paul was unmoved by the internal criticism and blamed his party for abandoning its deficit hawk ways now that it is in power.

"The hypocrisy is astounding. Every one of these Republicans complained about President Obama's deficits," Paul said.

Because the budget deal was filed on late Wednesday, the Senate needed consent from all 100 senators to hold a vote before the midnight funding deadline, giving Paul significant leverage to make his point that the Senate should be more open to debate.

As the shutdown neared, Paul's colleagues ganged up on him as they grew increasingly frustrated with a member of their own party. Senate Majority Whip John Cornyn (R-Texas) blamed Paul directly for "wasting everybody's time."

"It's just grossly irresponsible," Cornyn told reporters, explaining why Republicans would not grant him his amendment. "Why reward bad behavior?"

Sen. Lindsey Graham (R-S.C.) said Paul is waging his fight "probably to help Rand

Paul."

And Cornyn, McConnell, Graham and Sen. Thom Tillis (R-N.C.) tried repeatedly to set up a vote before the shutdown deadline. Each time, Paul objected, much to Tillis' frustration.

"Do you want to be a senator that wants to make a point or you want to make a difference? You know what? I don't see how points alone can make a change in America," Tillis fumed on the Senate floor. "You can make a point all you want. But points are forgotten. There's not a whole of history books about the great points of the American Senate."

After Paul withstood a barrage of criticism from his colleagues, the like-minded Lee came to the floor to defend him. He said individual senators are "left out of the process" and left with a binary choice of voting yes or no, with no alterations to legislation.

"Rand has every right to do what he's doing. He's making some good points," added Sen. John Kennedy (R-La.). "I'd rather that there not have been a shutdown. But it's not much of a shutdown."

Despite the celebration among many lawmakers in both parties about the massive \$300 billion budget deal reached Wednesday, leaders miscalculated by waiting until the last minute and hoping Paul would go along. The result was the second government shutdown in a period of three weeks, though it will likely be brief. The House is expected to vote sometime Friday morning.

"I'm not advocating for shutting down the government. I'm also not advocating for keeping the damn thing open and borrowing a million dollars a minute. This is reckless spending that is out of control," Paul said on Fox News.

Some of Paul's colleagues said they were less concerned because of the short nature of the expected shutdown.

"I would be more critical if I thought this was shutting down government for a period of time," said Sen. Jerry Moran (R-Kan.).

Paul's one-man bout of brinkmanship is just the latest lonely stand for the libertarian-leaning senator who's briefly caused a shutdown of surveillance programs, opposed Republican budgets and upset GOP leaders' plans to repeal Obamacare last year. But Paul said his colleagues' budget deal is causing uncertainty in the stock market and stated that "this country is going to hell in a hand basket" with such profligate spending.

Paul insisted McConnell was not angry with him over the row.

"We get along fine," Paul said.

Paul had been threatening to block quick passage all day, and then gave an interview to Fox News just before 5 p.m. that sealed Congress' course. Shortly after Paul went on Fox, he marched to the Senate floor with a series of charts about how much he dislikes the bill. He spoke for more than an hour.

"Your grandkids are being stuck with the bill! Mark my words, the stock market is jittery" over the debt, Paul said. "It's worth a debate whether we should borrow a million dollars a minute."

Paul spoke to Trump on Thursday, and urged the president to direct McConnell to grant a vote on his amendment.

And he admitted that his amendment would only get 15 to 20 votes. But he is discouraged by the lack of debate and ability to amend such a large budget deal.

Yet with just hours to go before funding expired, GOP leaders were in no mood to open up the amendment process. Democrats also wanted to amend the bill if Paul was allowed to.

"It's hard to make an argument that if one person gets an amendment, that everybody else won't want an amendment," said Senate Minority Leader Chuck Schumer (D-N.Y.).

Republicans tried to accommodate Paul with a procedural "budget point of order" vote that would easily fail, but Paul resisted, preferring to use the Senate floor and the ticking clock to garner attention for his lonely cause.

John Bresnahan, Seung Min Kim and Ayanna Alexander contributed to this report.

To view online [click here](#).

[Back](#)

Racehorses, rum, honeybees: The surprises in the budget bill [Back](#)

By POLITICO Staff | 02/08/2018 02:27 PM EDT

Doctors. Honeybees. A small Christian college in Kentucky. Racehorses. The rum industry. The Federal Reserve. Livestock producers. Advocates of nuclear energy. Critics of the federal budget process. They all got a piece of the massive budget bill that will be voted on as soon as Thursday.

Born of bipartisanship and propelled by a "must-pass" urgency, the measure, which

includes disaster relief and stopgap spending, has been loaded up with little-noticed deals for lawmakers' favorite causes.

Fiscal hawks can balk. But the breadth of the grab bag is seen as essential to successful passage of the two-year deal, [H.R. 1892 \(115\)](#), to lift budget caps — a move that would free Congress to finally start writing more granular funding levels for the fiscal year that started months ago.

The list includes:

Tax breaks comeback

— The revival of tax credits for maintaining short-distance railroad tracks that feed long-haul routes, tax breaks for producing rum and write-downs for racehorses and auto-racing venues.

— Renewal of a tax deduction for mortgage insurance and a tax credit for miner rescue teams.

Doctors and drugmakers

— A win for the American Medical Association and other doctor groups, who persuaded senators to drop a provision that would have let the Centers for Medicare and Medicaid Services shift Medicare money from high-paying specialties to more primary care services or implement an across-the-board cut.

— Language forcing the pharmaceutical industry to pay 70 percent of the cost of drugs for seniors in Medicare's coverage gap a year early.

— The repeal of Obamacare's Independent Payment Advisory Board, the controversial initiative that would have removed some power over Medicare's purse strings from Congress. The panel was never put into effect.

College carve-outs

— Two provisions that appear aimed at protecting colleges in Senate Majority Leader [Mitch McConnell](#)'s home state. One would shield Berea College, a small Christian college that serves low-income students, from a new tax on wealthy university endowments by exempting schools that don't charge tuition. Another is narrowly crafted student default language that appears to apply only to Southeast Kentucky Community and Technical College.

— In the disaster aid portion of the bill, forgiveness of loans made to four historically

black colleges and universities in response to Hurricane Katrina in 2005.

Honeybees, fish and cattle

— A provision secured by Sen. Jerry Moran (R-Kan.) to remove a \$125,000 cap on payments to livestock producers under the Livestock Indemnity Program and to expand it to cover animals sold at a lower price in the event of a natural disaster.

— A \$20 million annual cap on the Emergency Assistance for Livestock, Honey Bees and Farm-Raised Fish program that would be lifted.

Hurricane help

— An additional \$64 million for U.S. Immigration and Customs Enforcement to repair facilities in Puerto Rico, the U.S. Virgin Islands, Texas and Florida, among other storm-related expenses.

— Another \$25 million for the inspector general's office to probe fraud and abuse tied to relief funding.

Nukes and oil

— A win for nuclear proponents with a section of the bill that would eliminate a 2020 deadline to claim a tax credit for new nuclear power plants. The Vogtle reactors, the only ones under construction in the country, are not expected to be online by then.

— The sale of up to \$350 million from the Strategic Petroleum Reserve to fund modernization efforts, as well require the sale of an additional 100 million barrels from the oft-tapped reserve to help offset the budget package's cost.

— A 9-cent-per-barrel tax on oil to pay for spill cleanups. The tax, which goes to the Oil Spill Liability Trust Fund, expired at the end of last year. It would go back into effect starting March 1.

Social services

— An extension by five years of a program that gives roughly \$400 million annually to fund community health workers to help at-risk pregnant women and families navigate the social safety net.

The Fed

— A cap on the Federal Reserve's surplus at \$7.5 billion, resulting in a \$2.5 billion offset for the government.

Fiscal dysfunction

— A special congressional committee to tackle budgetary dysfunction, following through on a pledge House Speaker [Paul Ryan](#) made at a closed-door GOP conference meeting this week.

Jennifer Scholtes, Aaron Lorenzo, Benjamin Wermund, Dan Diamond, Quint Forgey, Catherine Boudreau, Nick Juliano, Kimberly Hefling, David Pittman, Ted Hesson and Anthony Adragna contributed to this report.

To view online [click here](#).

[Back](#)

Energy tax extenders included in budget deal [Back](#)

By Nick Juliano | 02/08/2018 07:58 AM EDT

The massive budget deal Senate leaders unveiled overnight would reinstate a variety of energy tax extenders for last year and modify credits for nuclear energy and carbon capture projects.

The bill, [H.R. 1892 \(115\)](#), includes a variety of "orphaned" tax extenders that were left out of a 2015 deal to phase out the wind and solar tax credits. The bill allows biomass, geothermal, waste-to-energy and qualified hydro projects to claim the production tax credit for 2017. For technologies including fiber-optic solar, qualified fuel cells and small wind projects that claim the investment tax credit, it will be phased out through 2022, on the same schedule as other solar projects.

The bill also reinstates for 2017 several other tax credits to promote energy efficiency investments and biofuel production, among other technologies.

Nuclear proponents scored a win with a section of the bill that eliminates a 2020 deadline to claim a tax credit for new nuclear power plants. The Vogtle reactors, the only ones under construction in the country, are not expected to be online by then.

The bill also includes language expanding a tax credit for carbon capture and sequestration and enhanced oil recovery that had been sought by lawmakers on both sides of the aisle.

To view online [click here](#).

[Back](#)

CBO: Spending deal would cost \$320B over decade [Back](#)

By Sarah Ferris | 02/08/2018 05:02 PM EDT

The budget deal Congress is poised to clear would cost nearly \$320 billion over a decade, according to the Congressional Budget Office.

The bill would reduce mandatory spending by nearly \$47 billion over 10 years even as it balloons discretionary spending, CBO [reported](#) Thursday.

That means many of the extra policy provisions tucked into Congress' spending deal, [H.R. 1892 \(115\)](#) — including renewal of dozens of expiring tax credits, reauthorization of health programs and relief for the agriculture industry — would not add to the deficit.

That mandatory savings, however, would put a small dent in the nearly \$359 billion in new discretionary spending — the money Congress appropriates.

The deal would include an additional \$300 billion for domestic and defense budgets over two years, busting sequester-era spending caps for non-defense programs.

While the measure includes \$89 billion in disaster aid, CBO estimates those provisions would increase actual outlays by about \$68 billion.

In order to pass the bill, congressional leaders have proposed waiving pay-as-you-go rules, which require offsets for all new spending.

The vast majority of the budget deal's savings — about \$53 billion over a decade — is the result of extending Congress' mandatory sequester. Another \$8.5 billion is the result of prolonging user fees, as well as \$3.3 billion from aviation security fees. Selling oil from the Strategic Petroleum Fund would bring in \$6.3 billion.

Language extending several Medicare policies would provide about \$38 billion in offsets. That would pay for the entire health package within the more than 650-page bill, including funding for an extension of the Children's Health Insurance Program and community health centers, and repealing the much-maligned Independent Payment Advisory Board.

GOP leaders have said the budget deal includes roughly \$100 billion in offsets to pay for most of the \$128 billion in additional domestic spending.

The CBO has not estimated the cost of raising the debt ceiling through March 2019, as laid out in the bill.

To view online [click here](#).

[Back](#)

JCT: Energy tax provisions cost \$11B [Back](#)

By Nick Juliano | 02/08/2018 03:18 PM EDT

Energy tax credits in the budget deal Congress is considering will cost about \$11 billion over the next decade, according to [estimates](#) from the Joint Committee on Taxation released Thursday.

The most expensive piece of the energy package is a retroactive, one-year extension of a set of income and excise tax credits for biodiesel and renewable diesel. JCT says reinstating those so-called 25D credits for 2017 will cost nearly \$3.3 billion in lost revenue to the government.

Extending tax credits for residential clean energy technologies such as geothermal heat pumps will cost close to \$3.2 billion over the next 10 years, according to JCT, making it the second-most expensive energy provision included. The credit, which expired at the end of 2016 for some technologies, will now be phased out through 2021.

The bill also extends and phases out a set of "orphaned" technologies that had been eligible for the investment tax credit but were left out of a 2015 law. Applying the phaseout to technologies such as fuel cells and small wind systems will cost about \$1.3 billion over the next decade, JCT estimates.

JCT said it will cost about \$689 million over a decade to expand a tax credit for carbon capture and sequestration and enhanced oil recovery. The budget deal includes bipartisan language to increase the value of the credit to from \$10 to \$35 for carbon used in enhanced oil recovery, and from \$20 to \$50 for other geologic storage, and it makes it easier for companies to claim the credit.

Removing the expiration date of a nuclear energy production tax credit — which will allow the under-construction Vogtle reactors to qualify — will reduce revenues by \$637 million over the next 10 years, according to JCT. But those costs do not begin accumulating in earnest until around 2024.

Reinstating an excise tax credit for alternative fuels and mixtures for last year will cost about \$555 million, according to JCT.

Another set of home efficiency credits, known as 25C, would be reinstated for 2017 in

the bill, at an estimated cost of \$542 million over a decade.

Several other energy extenders included in the package carry price tags of less than a half-billion dollars apiece.

To view online [click here](#).

[Back](#)

Senate panel again advances Wheeler for EPA deputy on party-line vote [Back](#)

By Alex Guillén | 02/07/2018 10:14 AM EDT

The Senate Environment and Public Works Committee today advanced Andrew Wheeler's nomination to be EPA deputy administrator by a party-line vote of 11-10.

Sen. [Tom Carper](#) (D-Del.) said he hopes Wheeler can comment further on EPA actions targeted in Murray Energy's coal memo to the Trump administration, including EPA's greenhouse gas endangerment finding and mercury rule. Wheeler said last year that he attended meetings on the memo, but did not write the company's pitch.

Carper said such assurances could lead to a "possible time agreement" to advance Wheeler's nomination on the floor.

The panel [previously approved](#) his nomination by a party line 11-10 vote in November, but Wheeler did not advance on the floor before the end of last year's session, prompting his re-nomination.

As reported in [Morning Energy](#), Wheeler contributed last year to panel chairman [John Barrasso](#)'s re-election campaign and Sen. [Jim Inhofe](#)'s leadership PAC. Wheeler formerly worked as a top staffer to Inhofe at EPW before moving in 2009 to Faegre Baker Daniels, where he is an attorney and lobbyist.

Both donations occurred before his formal nomination, but after POLITICO [reported](#) that Wheeler topped the White House's list for that post, according to FEC records.

WHAT'S NEXT: Wheeler awaits a final floor vote. It is unclear when that may happen.

To view online [click here](#).

[Back](#)

EPA to shutter all Las Vegas research operations [Back](#)

By Alex Guillén | 02/08/2018 05:16 PM EDT

EPA's research division will shut down all operations at its Las Vegas laboratory by the end of the fiscal year, according to an [email](#) from the head of EPA's National Exposure Research Laboratory obtained by POLITICO.

"Earlier today I met with our staff in Las Vegas to let them know that ORD will be ending all operations in Las Vegas as of September 30, 2018," wrote Tim Watkins in the Feb. 6 email. The move expands a previous decision to end NERL's work in Las Vegas, and now includes other research staff based there, as well as non-federal employees who work out of the facilities, according to the email.

"The drivers behind the decision are the continued pressure to reduce the amount of federally leased space by consolidating operations into federally owned space and to reduce our overall operational costs moving forward," Watkins wrote.

EPA confirmed the closure.

"EPA is consolidating services into EPA-owned buildings in Cincinnati, Ohio and Research Triangle Park, NC. This decision will save taxpayer dollars and streamline layers," EPA spokeswoman Liz Bowman said in a statement. The Las Vegas staff can relocate to another EPA facility this summer, she said.

NERL is based out of Research Triangle Park, and has locations in Cincinnati and Athens, Ga.

It was not immediately clear how many employees are affected; [EPA's website](#) indicates 166 people work at the Las Vegas lab, though some may have already departed given the previous decision to close some of the research operations.

Administrator Scott Pruitt was in Las Vegas on Monday and Tuesday. EPA did not say whether Pruitt visited the facility.

To view online [click here](#).

[Back](#)

Interior methane waste rule change clears OMB [Back](#)

By Ben Lefebvre | 02/08/2018 03:29 PM EDT

The Interior Department's proposed change to an Obama-era rule on methane emissions has cleared the Office of Management and Budget, according to [OMB's website](#), indicating an official announcement could come soon.

Interior has made it clear that it would roll back or significantly soften the Bureau of Land Management rule on methane emissions from wells and pipelines that was finalized in November 2016. Interior has delayed enforcing it after Congressional Republicans failed to kill the rule using a Congressional Review Act in May,

Environmental groups and state attorneys general have already pledged to sue any attempt to repeal the rule.

WHAT'S NEXT: Interior will announce its planned changes to the rule.

To view online [click here](#).

[Back](#)

EPA posts one of top enforcement years in last decade, helped by VW settlement

[Back](#)

By Alex Guillén | 02/08/2018 03:06 PM EDT

EPA today reported that 2017 was one of the agency's best years in the last decade on enforcement, though the figures were bumped up by the Volkswagen emissions cheating case that was begun under the Obama administration.

The agency secured \$20 billion in spending by companies to fund pollution controls and remediation as part of enforcement agreements. Of that, nearly \$16 billion was connected to the Volkswagen scandal. It was the second-highest relief level in a decade, behind only 2011.

EPA also assessed administrative or judicial penalties of \$1.6 billion last year — again, the second-highest year in a decade, behind 2016 when the figures were boosted by a \$5.7 billion penalty against BP over its Gulf of Mexico oil spill. Criminal fines were nearly \$3 billion last year, the third-biggest year in a decade, also helped by the Volkswagen penalty.

The number of federal inspections continued a six-year decline, falling to 11,700 last year. Inspections in 2007 and 2010 each topped 20,000. The figure does not include state inspections.

Critics argue that 2017's results benefited from Obama-era actions. In an email to reporters on Wednesday, former EPA enforcement chief Cynthia Giles said that the Trump administration "can only reasonably take credit for 5 [percent] - or less - of the most important results."

It is fair for EPA to include those numbers in the 2017 report, Giles added, but she said

it would be "misleading" to argue "that these numbers show that Administrator [Scott] Pruitt is enforcing the law."

To view online [click here](#).

[Back](#)

Was this Pro content helpful? Tell us what you think in one click.				
Yes, very	Somewhat	Neutral	Not really	Not at all

You received this POLITICO Pro content because your customized settings include: Morning Energy. To change your alert settings, please go to <https://www.politicopro.com/settings>

This email was sent to grantham.nancy@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

To: Idsal, Anne[idsal.anne@epa.gov]
From: Gray, David
Sent: Fri 1/26/2018 10:41:36 PM
Subject: DOJ civil enforcement referrals
Referrals 01-19-18 (002).docx
Referrals Not Concluded excluding SF 1-19-2018cmo (002).xlsx

Forwarding attached lists of open DOJ civil referrals for regulatory enforcement and Superfund.

To: Gray, David[gray.david@epa.gov]
From: Gray, David
Sent: Thur 9/21/2017 7:03:57 PM
Subject: FW: Action: Complete TAGA Maps and Reports thru 9/19

[TAGA Runs 20170914 11x17.pdf](#)
[TAGA Runs 20170915 11x17.pdf](#)
[TAGA2 Runs 20170917 11x17.pdf](#)
[TAGA1 Runs 20170917 11x17.pdf](#)
[TAGA2 Runs 20170918 11x17.pdf](#)
[TAGA1 Runs 20170918 11x17.pdf](#)
[TAGA Report - for 091417.docx](#)
[TAGA Report - for 091517.docx](#)
[TAGA Report - 09-17-2017.docx](#)
[ATT00009.htm](#)
[TAGA Report - 09-18-2017 Monday.docx](#)
[ATT00010.htm](#)
[TAGA Report - 09-19-2017 Tuesday v3.docx](#)
[TAGA1 Runs 20170919 11x17.pdf](#)

Monday 09/18/2017

The Environmental Response Team's (ERT's) mobile laboratories, using the Trace Atmospheric Gas Analyzer (TAGA) tandem mass spectrometer system, performed mobile monitoring near Point Comfort, Victoria and Port Arthur, Texas. The TAGA conducted monitoring near Formosa (Point Comfort), Formosa Plastics Marine Terminal (Point Comfort), Invista (Victoria), Flint Hills (Port Arthur), Total Petrochemicals Port Arthur Refinery (Port Arthur), Valero (Premcor), Port Arthur Refinery (Port Arthur), Motiva Port Arthur Refinery, Oiltanking Motiva Port Neches Terminal, Shell Pipeline Crude Product, and Huntsman Petrochemical Port Neches Facility. TAGA monitoring was also performed in neighborhoods around Huntsman, Valero, and Motiva. No readings above the TCEQ Air Monitoring Comparison Values short-term screening levels were detected. The air monitoring conducted on Monday 9/18/2017 indicated that the TAGA-specific analytes were below the Texas Commission on Environmental Quality (TCEQ) comparison levels (short-term Air Monitoring Comparison Values (AMCVs)). Therefore, it appears that there is no significant air concern based upon the TCEQ comparison levels.

What's an AMCV

AMCV is a collective term used to describe chemical specific air concentrations used to evaluate air monitoring data that are set to protect human health and welfare. Short-term AMCVs are based on data concerning acute health effects. AMCVs may contain health -based Reference Values (ReVs) and health- and welfare-based ESLs.

AMCVs are screening levels used in TCEQ's evaluation of ambient air monitoring data to assess the potential for measured concentrations of specific chemicals to cause health or welfare effects. Health-based AMCVs are levels at which exposure is unlikely to result in adverse health effects.

Substance	CAS #	TAGA detection limit (ppbv)	TCEQ short-term AMCV (ppbv)
1,1,1-trichloroethane	71-55-6	1	1700
1,1-dichloroethane	75-34-3	1	1000
1,1-dichloroethylene	75-35-4	1	180
Benzene	71-43-2	1	180
ethylbenzene	100-41-4	1	20000
m/p-xylene	179601-23-1	1	1700
methyl tert-butyl ether	1634-04-4	1	500
o-xylene	95-47-6	1	1700
tetrachloroethylene	127-18-4	1	1000
Toluene	108-88-3	1	4000
trichloroethylene	79-01-6	1	100

To: Idsal, Anne[idsal.anne@epa.gov]
From: Gray, David
Sent: Tue 1/16/2018 12:40:45 PM
Subject: FW: Morning Energy: Solar decision won't be the end — Senators eyeing omnibus for flood control project revival — Frowns for FirstEnergy

By Kelsey Tamborrino | 01/16/2018 05:43 AM EDT

With help from Darius Dixon and Alex Guillén

SOLAR DECISION WON'T BE THE END: President Donald Trump will make a consequential decision this week on whether to place trade barriers on solar equipment imports. But while whatever he decides could be a potential setback to the young sector as federal subsidies shrink, it's not likely to be the kiss of death that some advocates had feared.

Here's the background: Back in October, the U.S. International Trade Commission recommended a combination of quotas and tariffs up to 35 percent on imports of solar cells and panels. Many in the solar industry warned such a blow would hike costs for "the clean energy systems and wipe out up to a third of the solar jobs in the U.S.," Pro's Eric Wolff reports. "But panels are only one part of the total cost of building a solar installation, and they now make up less than 20 percent of the overall price of a home system and about one-third the cost of a large, utility-scale plant."

"I wouldn't characterize it as an end-game scenario," said Timothy Fox, a vice president and analyst at ClearView Energy Partners. Eric points out the ITC recommendations are far weaker than the 32-cent-per-watt tariff and import cap sought by the companies that lodged the trade complaint, Suniva and SolarWorld Americas. "Under Section 201, the section of the Trade Act the companies used to file their complaint, the maximum tariff that can be tacked on is 50 percent, a level that if imposed would likely raise the cost of the largest solar power plants by about 15 percent and a little more than 5 percent for the average home system," Eric writes.

What Trump could do: The president can impose a quota on import levels at the average of the last three years, though he could go beyond that if he can come up with a justification that might be valid to the World Trade Organization, according to trade attorney Terry Stewart. The law allows those tariffs to last for four years. The president, meanwhile, has been pressing his staff to find tariffs he can impose on Chinese companies, Eric reports. Some speculate that Trump may choose to impose only modest barriers on solar, and instead seek more onerous tariffs in the coming weeks for aluminum and steel imports. Read [more](#).

WELCOME TO TUESDAY! I'm your host Kelsey Tamborrino. Bracewell's Frank Maisano was the first to know North Dakota is home to the Great Plains Synfuels Plant, the country's only commercial-scale synthetic natural gas producer, where both Sen. [Heidi Heitkamp](#) and former Wyoming Gov. Jim Geringer were both involved as directors for its operator Dakota Gasification Company. I also want to offer my apologies to Frank, who due to an email mix-up last week, neglected to receive credit for knowing Thursday's trivia answer as well. For today: Who are the only mother-son pair to have served simultaneously in Congress? Send your tips,

energy gossip and comments to ktamborrino@politico.com, or follow us on Twitter [@kelseytam](https://twitter.com/kelseytam), [@Morning_Energy](https://twitter.com/Morning_Energy) and [@POLITICOPro](https://twitter.com/POLITICOPro).

OMNIBUS EYED FOR YAZOO: Mississippi senators are eyeing the potential omnibus to revive a controversial flood control project previously vetoed by the EPA during the George W. Bush era. Republican Sen. [Thad Cochran](#) is pushing to bring back the \$220 million Yazoo Backwater Area Pumps project, which would "divert rainwater from an already soggy part of the state into the river, improving farming conditions and reducing flooding in the area," Pro's Annie Snider reports. But the project — [once called](#) by John McCain "one of the worst projects ever conceived by Congress" — has faced considerable backlash for its expensive price tag and for its potential to destroy vital wetlands and wildlife habitats.

The push from Cochran, chairman of the Senate Appropriations Committee, comes as the House GOP considers lifting the earmark ban. The Republican added a rider to one of his committee's spending bills directing the Army Corps of Engineers to "immediately" begin work on the project, Annie reports, and he is pushing for it to be included in an omnibus appropriations bill. House Speaker [Paul Ryan](#) pointed to the Army Corps and its layers of red tape this week when discussing the possibility of lifting the earmark ban, saying the Corps has "not been up to snuff about getting its job done."

With Cochran's ailing health and his chairmanship reaching its term-limit, supporters see opportune timing in the spending fight. Cochran's office says the provision is not an earmark because the project has already been authorized, and because the amendment wouldn't direct any specific amount of money to it. But in the end, "the debate over the Yazoo pumps rider may still resemble a classic earmark fight," Annie writes, "with lawmakers caring less about the merits of a colleague's pet project than that a win for someone else will mean less left for them." Read [more](#).

TAIWAN TO IMPORT MORE GAS: The United States' 10th-largest trading partner will soon start importing more energy from the U.S., Pro's Patrick Temple-West reports. Taiwan's Minister of Economic Affairs Shen Jong-chin told POLITICO that state-owned energy company CPC Corp. has signed a 20-year contract to import liquefied natural gas from the United States, ramping up this year. With the LNG imports, "we believe we can efficiently solve the problem of deficits between Taiwan and the U.S.," Shen said. It's a move that will likely garner support from the Trump administration, given its ability to reduce Taiwan's trade surplus. Read more [here](#).

YOUR OFFSHORE UPDATE: Following his promise to discuss the administration's recent offshore drilling proposal with any and all states that wanted to, Interior Secretary Ryan Zinke spoke with multiple governors on Friday. Washington Gov. Jay Inslee, chairman of the Democratic Governors Association, reiterated his opposition to new drilling in a Friday phone call with Zinke. "I told him the concerns of Washingtonians and West Coast residents deserve be treated with the same consideration and deliberation as those in Florida," Inslee said in a statement. "Secretary Zinke did not provide that commitment, unfortunately. But this fight is far from over." Oregon Gov. Kate Brown's office said Zinke agreed to consider exempting the state after they spoke Friday, [according to](#) the Associated Press.

Zinke also promised Friday to travel to California to visit Gov. Jerry Brown to discuss the agency's plan, Pro's Ben Lefebvre [reports](#). "During the conversation, Gov. Brown asked for the same consideration Florida recently received and noted broad opposition from Republicans, Democrats and Independents across the state to any expansion of oil and gas drilling off of the California coast," Brown's office said. "The Governor invited Secretary Zinke to come to California to continue this constructive conversation in the weeks ahead and the Secretary agreed to a future meeting and visit."

As for whether Zinke will make a trip to Washington anytime soon, Washington State spokeswoman Tara Lee said the governor did not explicitly ask the secretary to visit the state. But it was her understanding that "the governor repeatedly asked the Secretary what information he would need to make a decision or change his mind. It doesn't sound as Sec. Zinke provided that information."

The Bureau of Ocean Energy Management will begin a series of public hearings today to discuss the department's expanded five-year drilling plan. See where and when [here](#).

FROWNS FOR FIRSTENERGY: Last week was bookended by bad news for FirstEnergy. Things started Monday with FERC rejecting the Energy Department's grid proposal, a plan the company had been pushing for to save its coal and nuclear plants. And by quitting-time Friday, FERC [blocked](#) FirstEnergy from selling its Carter-era Pleasants coal-fired power plant from one of its subsidiaries, AE Supply, to another, Monongahela Power. Where AE Supply operates the 1,300-megawatt plant in PJM's competitive market, Mon Power is a top-down electric utility that would be able to shield the plant from the losses in the markets. While it didn't object to efforts to address a potential future power shortfall in the area, FERC said the FirstEnergy companies had not demonstrated that the transfer was "consistent with the public interest," and determined that the process for acquiring additional resources was skewed.

The other interesting wrinkle: The issue got a bit awkward for FERC Commissioner Neil Chatterjee when Bill Scherman, a former FERC general counsel, called him up a day before the decision. According to Chatterjee's [ex parte memo](#), Scherman, a partner at Gibson, Dunn & Crutcher who has been [working](#) for FirstEnergy, said he'd been tipped off that FERC would "issue an order adverse to the interests of Monongahela Power." In the conversation with Chatterjee, Scherman also urged that FERC hold a hearing on the Pleasants transfer request instead of issuing the "adverse order." But Chatterjee followed the rules: "As soon as I realized that Mr. Scherman's communication concerned the merits of the contested proceeding, I terminated the communication and did not respond to Mr. Scherman's statements. I then drafted this memorandum to memorialize the ex parte communication for the record."

FOR YOUR RADAR: Chatterjee and FERC Commissioner Cheryl LaFleur will appear at the Bipartisan Policy Center today to discuss the proposed grid resilience pricing rule. **If you go:** 10 a.m. at 1225 Eye Street NW, Suite 1000.

LET THE MERGER PROCEEDING BEGIN: SCANA made its plans to be bought by Virginia-based Dominion official late last week when the companies [submitted the request](#) to South Carolina regulators. The 690-page petition suggests that the South Carolina Public Service

Commission have a hearing on the merger on April 17. Under the proposal, SCANA's customers would get \$1.3 billion credit from the merger but would still be on the hook for costs related to the abandoned Summer nuclear project.

EPA PROJECTS FINAL OZONE DESIGNATIONS BY APRIL 30: EPA plans to issue the final round of nonattainment designations by April 30, after consulting once more with the states and the public, the agency said Friday in a [court filing](#). The agency named April 30 as its "goal" to finish, the same date environmentalists earlier this month asked the court to set as a hard deadline for EPA to finish. But the administration told the court it needs another week, until this coming Friday, to set a more detailed schedule to meet that date. The final designations will trigger the years-long process for states with nonattainment areas to create and execute plans to reduce emissions.

MONUMENT MOVES: The Bureau of Land Management will publish [two notices](#) in the Federal Register today to push forward land use plans related Utah's Bears Ears and Grand Staircase-Escalante monuments, which the Trump administration is shrinking. BLM will accept comments for a 60-day period ending March 19, or 15 days after the last public meeting, whichever is later. The agency has not yet released dates or locations of meetings.

WHITE HOUSE TAPS FORMER EPW STAFFER: The White House [tapped](#) Frank Fannon on Friday to be an assistant secretary of State on energy resources. Fannon is a long-time Senate staffer, where he served as counsel to the Environment & Public Works Committee under [Jim Inhofe](#) and had an instrumental role in the drafting and passage of the Energy Policy Act of 2005. He became partner of the Coefficient Group in 2017, and was previously head of corporate affairs at BHP Billiton as well as senior director of Murphy Oil Corporation.

RENEWABLES SPEED PAST FOSSIL FUELS: Electricity from renewables will soon be consistently cheaper than that from fossil fuels, a [new report](#) from the International Renewable Energy Agency finds. By 2020, all commercial power generation technologies will fall within fossil-fuel range, with most undercutting or at the lower end, the report found. It found onshore wind power generation costs dropped by a quarter since 2010, while solar photovoltaic electricity costs fell by 73 percent. Within the next two years, the best onshore wind and solar projects will be delivering electricity for 3 cents per kWh. Currently, fossil fuel power generation costs range between 5-17 cents per kWh.

LINING UP: A new report from the Wind Energy Foundation finds more U.S. transmission lines are needed to meet the growing demand for renewables. Specifically, the report found transmission planners are not accounting for up to 51 gigawatts of potential near-term procurement. Read the report [here](#).

MAIL CALL — COUNT US OUT: Virginia Sens. [Mark Warner](#) and [Tim Kaine](#) and Reps. [Donald McEachin](#), [Gerry Connolly](#), [Don Beyer](#), and [Bobby Scott](#) sent a letter to the Trump administration requesting Virginia be exempted from its offshore drilling proposal. The letter, sent Friday, cites concerns over the proposal's effect on the state's tourism, watermen's industry and U.S. Naval operations. Read the text of the letter [here](#).

QUICK HITS

- U.S. charges Maryland businessman with bribing Russian official, [Reuters](#).
- Shell bolsters renewables bet with stake in U.S. solar company, [Bloomberg](#).
- Opinion: How Trump defies his critics on solar, [The Hill](#).
- Battle lines form over FWS mitigation policy, [E&E News](#).
- Huge oil spill left after burning tanker sinks off China, [BBC](#).
- Oil sector keeps open mind on blockchain, [Platts](#).

HAPPENING THIS WEEK

TUESDAY

- Trump meets today with Kazakhstan President Nursultan Nazarbayev at the White House

10:00 a.m. — "[The Domestic and Global Energy Outlook](#)," Senate Energy and Natural Resources Committee, 366 Dirksen

10:00 a.m. — Bipartisan Policy Center hosts FERC Commissioners Neil Chatterjee and Cheryl LaFleur [to discuss](#) the proposed Grid Resiliency Pricing Rule, 1225 Eye Street NW, Suite 1000

12:00 p.m. — The Heritage Foundation hosts a [forum](#) on NAFTA and energy trade, 214 Massachusetts Ave NE

1:30 p.m. — The CSIS Energy & National Security Program hosts a [forum](#) on the International Energy Agency's World Energy Outlook 2017, 1616 Rhode Island Ave NW

WEDNESDAY

10:00 a.m. — House Natural Resources Committee [markup](#) of pending calendar business, 1324 Longworth

10:00 a.m. — "[America's Water Infrastructure Needs and Challenges: Federal Panel](#)," Senate Environment and Public Works Committee, 406 Dirksen

10:00 a.m. — Senate Energy Water and Power Subcommittee [hearing](#) on the Bureau of Reclamation's title transfer process, 366 Dirksen

2:00 p.m. — House Natural Resources Committee [hearing](#) on H.R. 4506, the "Jobs for Tribes Act," 1324 Longworth

THURSDAY

10:00 a.m. — Senate Energy and Natural Resources Committee hearing to consider DOE nominees, 366 Dirksen

10:30 a.m. — United States Energy Association holds its 14th annual State of the Energy Industry forum, 529 14th Street, NW

2:00 p.m. — The CSIS Energy & National Security Program hosts a forum on the Institute of Energy Economics, Japan's Energy Outlook 2018, 1616 Rhode Island Ave NW

5:30 p.m. — Resources for the Future hosts Daniel Raimi, author of "The Fracking Debate," 1616 P St. NW, Suite 600

6:00 p.m. — Leaders in Energy and Potential Energy hold a discussion on "Clean Energy Project Financing: Where the Rubber Meets the Road," 641 S Street NW

FRIDAY

9:00 a.m. — "Deficiencies in the Permitting Process for Offshore Seismic Research," House Natural Resources Energy and Mineral Resources Subcommittee, 1324 Longworth

THAT'S ALL FOR ME!

To view online:

<https://www.politicopro.com/newsletters/morning-energy/2018/01/solar-decision-wont-be-the-end-073922>

Stories from POLITICO Pro

Looming solar trade tariffs seen as no death blow for industry Back

By Eric Wolff | 01/16/2018 05:04 AM EDT

President Donald Trump will decide in the coming days whether to erect trade barriers on solar equipment imports, potentially dealing a setback to the young sector as federal subsidies shrink, but not likely the death blow that some renewable energy advocates have feared.

In October, the U.S. International Trade Commission recommended a combination of quotas and tariffs up to 35 percent on imports of solar cells and panels — which many in the solar industry have warned would hike costs for the clean energy systems and wipe out up to a third of the solar jobs in the U.S.

But panels are only one part of the total cost of building a solar installation, and they now make up less than 20 percent of the overall price of a home system and about one-third the cost of a large, utility-scale plant.

"I wouldn't characterize it as an end-game scenario," said Timothy Fox, a vice president and analyst at ClearView Energy Partners.

The ITC recommendations are far weaker than the measures sought by Suniva and SolarWorld Americas, the two companies that lodged the trade complaint. They called for a tariff of 32 cents per watt along with a cap on imports, which would nearly double the cost of importing panels, putting the panel price close to 80 cents a watt, a level last seen in 2012, according to a [report](#) from the National Renewable Energy Laboratory. Overall, that would raise the cost of building utility-scale plants to levels last seen in mid-2016.

Under Section 201, the section of the Trade Act the companies used to file their complaint, the maximum tariff that can be tacked on is 50 percent, a level that if imposed would likely raise the cost of the largest solar power plants by about 15 percent and a little more than 5 percent for the average home system.

And Trump can also impose a quota to import levels at the average of the last three years, though he could go beyond that if he can come up with a justification that might be valid to the WTO, according to trade attorney Terry Stewart. The law allows those tariffs to last for four years.

The cost of solar power has plunged over the past decade, outpacing even the most optimistic forecasts and setting off a boom in installations that has helped make clean energy technology cheaper than coal and natural gas-fired power in some parts of the country.

And much of that growth has been driven by sharp declines in panel prices built by Chinese companies in factories across Asia — which the ITC said had driven many U.S. panel-makers out of business.

Trump, who must announce his decision by Monday but could act this week, has been pressing his staff to find tariffs he can impose on Chinese companies. Some industry observers have speculated that Trump may choose to impose only modest barriers on solar, and instead seek more onerous tariffs in the coming weeks for aluminum and steel imports.

Suniva and SolarWorld say the limited impact of tariffs is evidence that the rest of the domestic solar industry is overreacting.

"The Suniva/SolarWorld remedies are designed to return market pricing to the early 2016 levels — a period of record solar installation growth, before the U.S. manufacturing industry suffered significant damage from the latest market distortions of 2016-17, caused by massive oversupply as part of the continual and intentional cheating of the trade system by China and its proxies," Mark Paustenbach, a Suniva spokesperson, said in a statement.

Paustenbach added that the prices and quotas proposed by the two companies would allow them to rehire workers and compete in the U.S. marketplace.

The domestic solar industry instead suggests that 2018 has a far different policy context than

2016, especially as both federal- and state-level subsidies phase out.

"It is a myth for one to believe that by supporting tariffs American solar success will follow," said Abigail Hopper, CEO of the Solar Energy Industries Association. "Solar tariffs would be artificially driving up the price of energy, which will decrease demand and lead to significantly less manufacturing and solar installations in the U.S., not more."

And solar industry sources say a lot more was happening in 2016 than just falling module costs. Large solar projects had been rushed into the pipeline in 2015 to get construction started before the end of the Investment Tax Credit, which was slated to expire that year. The credit was extended, but those projects were completed in 2016, helping propel the industry to a record year. At the same time, many state price supports came to an end in 2016 and 2017.

Solar installations in the U.S. hit a record of 14.6 gigawatts of capacity in 2016, and SEIA expects new capacity additions to slip to 12 gigawatts this year.

"One of the expectations by policymakers is, 'We're going to give you these incentives, they're not going to last forever, they're going to step down because we expect you to reduce your costs in order to stand on your own two feet,'" said a solar industry source. "So the entire industry has been working toward that."

Policy changes at the federal level, such as the refocusing of Energy Department initiatives and a shift away from climate policies that had the indirect effect of promoting renewables like solar, are also creating headwinds for the industry in coming years.

"It's important to keep in mind this is happening [in] a very unsettled policy environment," said Ali Zaidi, a former Obama administration official and now an attorney at Morrison Foerster.

"Things happening at DOE, things at EPA — the combination of all those things amplifies the risk of this policy decision going the wrong way."

To view online [click here](#).

[Back](#)

Mississippi senators eye omnibus to revive controversial flood control project [Back](#)

By Annie Snider | 01/16/2018 05:05 AM EDT

As congressional Republicans debate whether to lift their self-imposed ban on earmarks, the Senate Appropriations chief is already taking a swing at advancing one of his pet projects.

[Thad Cochran](#) (R-Miss.) is pushing to revive a controversial \$220 million Mississippi flood control project that had been vetoed by President George W. Bush's EPA. Cochran added a rider to one of his committee's spending bills directing the Army Corps of Engineers to "immediately"

begin work on the project, and he is pushing for it to be included in an omnibus appropriations bill. The government will shut down without a spending deal in place by Friday, but Republicans have already suggested another stopgap measure may be needed to buy more time to work out myriad disagreements over yearlong funding.

The Yazoo Backwater Area Pumps project is a priority for Mississippi lawmakers and has previously won support from President Donald Trump's nominee to run the Army Corps. The pumps would divert rainwater from an already soggy part of the state into the river, improving farming conditions and reducing flooding in the area. But it has faced fierce resistance from budget hawks who say it is too expensive, as well as environmental and sportsmen's groups who say it would destroy vital wetlands and wildlife habitat along the Mississippi River.

Lawmakers have often pointed to the Army Corps of Engineers and its layers of red tape as one of the reasons they need to revive earmarks. House Speaker Paul Ryan did so last week in discussing the possibility of lifting the earmark ban, saying the Corps has "not been up to snuff about getting its job done."

But taxpayers' groups have long argued that the Corps is the epitome of pork-barrel politics. And fiscal hawks pointed to the Yazoo pumps project as a classic example before it was killed. In 2004, Sen. John McCain (R-Ariz.) called the project a "Frankenstein monster," and "one of the worst projects ever conceived by Congress."

With Cochran ailing and facing a term limit as chairman of the powerful spending panel at the end of this year, supporters see the ongoing spending fight as their best opportunity to revive the Yazoo pumps. Cochran's office says the provision is not an earmark because the project has already been authorized and his amendment would not direct any specific amount of money to it.

"Flood control is costly, but it's not as expensive as floods and the damage they cause," Cochran spokesman Chris Gallegos said in an email. "Completing this unfinished flood control project would help protect Mississippians in six Mississippi Delta counties, protect wildlife habitat, and save taxpayers in the long run. The Yazoo Backwater flood control project remains authorized and Congress now has an opportunity to make it a reality."

In the end, the debate over the Yazoo pumps rider may still resemble a classic earmark fight, with lawmakers caring less about the merits of a colleague's pet project than that a win for someone else will mean less left for them.

The rider included in the Senate's draft Interior-Environment spending bill would force the Corps to fund the Yazoo pumps project before other Corps projects. At a time when the agency has tens of billions of dollars' worth of authorized projects awaiting funding and an annual budget that hovers around \$6 billion, that may prove the most controversial aspect of all.

Proponents of the project say it would protect rural communities from flooding. But critics argue its true purpose is to drain farmland in a way that would benefit a small number of large landowners. The Clarion-Ledger, a local newspaper, even came out in opposition, calling the project a "boondoggle."

Meanwhile, environmental and sportsmen's groups say the harm to wetlands that provide crucial habitat to birds would be massive.

"This was absolutely a dead project, and it should be a dead project," said Melissa Samet with the National Wildlife Federation. "It's a prime example of misplaced priorities, and it's pretty mind-boggling."

But R.D. James, who is awaiting Senate confirmation as President Trump's pick to oversee the Army Corps of Engineers, has previously supported the project. Speaking as a member of the Mississippi River Commission, James backed finishing all of the pending projects up and down the Mississippi River and its tributaries, including the Yazoo pumps project, according to the Delta Farm Press.

Roger Wicker (R-Miss.), who joined Cochran in backing James, defended the appropriations rider but said he had not discussed the project with the Army Corps nominee.

"It's a matter of providing farmers and landowners the same certainty that we provide to people all over the country that the flood level not exceed a certain elevation," Wicker said in a brief interview.

The project's fate is now intertwined with the larger battles over an omnibus spending bill.

Democrats count the Yazoo provision among the environmental riders they are vowing to fight in a government funding deal.

"Any omnibus bill that can pass the Senate must remain free of poison-pill policy riders," New Mexico Sen. Tom Udall, the top Democrat on the Interior-Environment spending subpanel, said in a statement.

But it's unclear how high a priority Democrats will place on the issue when so many higher-profile fights, from immigration to defense spending, are in the mix. Even just among environmental riders, Yazoo is unlikely to outrank provisions relating to the Waters of the U.S. rule and sage grouse protections among Democrats.

To view online [click here](#).

[Back](#)

Taiwan to import more U.S. energy, a move likely to please Trump [Back](#)

By Patrick Temple-West | 01/16/2018 05:02 AM EDT

TAIPEI, Taiwan — Taiwan, the 10th-largest U.S. trading partner, is starting to import more

energy from America, a move that could reduce its trade surplus, according to a senior government official.

In an interview with POLITICO, Taiwan's minister of economic affairs, Shen Jong-chin, said CPC Corp., a state-owned energy company, has signed a 20-year contract to import liquefied natural gas from the U.S. and will begin ramping up this year. With the LNG imports, "we believe we can efficiently solve the problem of deficits between Taiwan and the U.S.," Shen said at the MEA's Taipei office this month.

The Trump administration is likely to applaud the development. During the 2016 election and since taking office, President Donald Trump has repeatedly railed against U.S. trade deficits with Mexico, China and other nations, arguing that they mean the U.S. is losing out.

Taiwan's trade deficit with the U.S. was about \$15.5 billion through the first 11 months of 2017, according to the Commerce Department, up from \$12.5 billion over the same period in 2016.

Electricity is a major political issue in Taiwan after an August blackout in Taipei and much of the island. Shen became head of the Ministry of Economic Affairs after his predecessor resigned in the wake of the blackout.

The LNG deal will also be celebrated in big energy-exporting states like Texas. Republican Sen. Ted Cruz has been a strong advocate for Taiwan in standing up to China. Cruz met with Taiwanese President Tsai Ing-wen in Houston in January 2017 despite strong objections from Beijing.

And Taiwan needs all the friends it can get. China regards Taiwan — which broke away from Communist mainland China in 1949 — as an outlaw province. Before he took office, Trump stirred up a diplomatic crisis after he spoke with the president of Taiwan, in a break with more than 35 years of U.S. policy. Eventually, Trump backed down on fighting against Beijing's "one China" stance.

Since Tsai was elected in 2016, China has pressured countries around the world to rename their Taiwanese trade offices with the name "Taipei" instead of Taiwan. Under pressure from China, Nigeria in June ordered Taiwan's top representative to leave the country and forced trade staffers out of the capital, Abuja.

U.S. Trade Representative Robert Lighthizer has expressed support for Taiwan, too. During his confirmation process in March, Lighthizer said he wanted "a stronger bilateral relationship with Taiwan" and to address Taiwan's reluctance to import U.S. beef and pork.

Shen, who said he has not met Lighthizer yet, said he would continue to work on U.S. trade issues through the bilateral WTO trade facilitation agreement. But he added: "We will also use the multilateral channels to improve our bilateral relationship."

The Trump administration has also pulled out of the TPP, in a blow to countries like Taiwan.

Taiwan is fighting to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership — the new TPP that is being negotiated without the U.S. Tsai this month called on Canada to support Taiwan's CPTPP membership.

"We will continue striving to obtain the support of members for Taiwan's participation in the CPTPP," he said.

Shen said Taiwan was also investing \$170 billion in petrochemicals development in India. Trump has in recent months been touting the "[Indo-Pacific](#)" region in an attempt to draw in India as a counterweight to China — an effort that is also likely to please Taiwan.

To view online [click here](#).

[Back](#)

Brown: Zinke to travel to California to talk offshore leases [Back](#)

By Ben Lefebvre | 01/12/2018 05:05 PM EDT

Interior Secretary Ryan Zinke promised to travel to California to visit Gov. Jerry Brown to discuss the agency's plan to sell new leases to explore for oil and gas off the state's coast in the upcoming five-year drilling proposal, Brown's office said today.

Today's telephone conversation with Brown, who has been staunchly opposed to new drilling along California's coast, came after Zinke decided to pull Florida from the plan at the urging of Republican Gov. Rick Scott.

"During the conversation, Gov. Brown asked for the same consideration Florida recently received and noted broad opposition from Republicans, Democrats and Independents across the state to any expansion of oil and gas drilling off of the California coast," Brown's office said.

"The Governor invited Secretary Zinke to come to California to continue this constructive conversation in the weeks ahead and the Secretary agreed to a future meeting and visit."

Zinke was also scheduled to talk to governors from South Carolina and other states whose coasts would be opened up for drilling.

An Interior spokeswoman did not immediately reply to a request for comment.

To view online [click here](#).

[Back](#)

Was this Pro content helpful? Tell us what you think in one click.				
Yes, very	Somewhat	Neutral	Not really	Not at all

You received this POLITICO Pro content because your customized settings include: Morning Energy. To change your alert settings, please go to <https://www.politicopro.com/settings>

.

.

To: Idsal, Anne[idsal.anne@epa.gov]
From: Gray, David
Sent: Fri 2/9/2018 12:04:12 PM
Subject: Fwd: Morning Energy: Shutdown: We hardly knew ye — EPA shuts Vegas research facilities — Canadians file to block solar tariffs

Reply-To: "POLITICO subscriptions" <reply-fe8913737166037473-630326_HTML-814497992-1376319-0@politicoemail.com>

By Kelsey Tamborrino | 02/09/2018 05:53 AM EDT

With help from Anthony Adragna, Ben Lefebvre, Annie Snider, Eric Wolff and Doug Palmer

WAS IT JUST A NIGHTMARE? After cutting it close to the wire, Congress passed a massive budget deal with various energy-related add-ons this morning. The Senate passed the bill earlier Friday morning, after Sen. [Rand Paul](#) [refused to allow](#) the measure to proceed Thursday without a standalone vote on an amendment related to the debt ceiling, forcing the government into shutdown mode for the second time in a matter of weeks, if only briefly. The package cleared the House a little after 5:30 a.m. and now heads to President Donald Trump, who has said he will sign it. The bill, [H.R. 1892 \(115\)](#), extends government funding through March 23 to give lawmakers time to write an omnibus appropriations bill for the rest of the year, and it sets top-line budget targets for the next two years. It also provides disaster relief funding and renews a number of tax extenders.

ICYMI, [here's](#) a reminder of what's in the budget bill:

- Most notably, the bill would reinstate several energy tax extenders and modify credits for nuclear energy and carbon capture projects, Pro's Nick Juliano [reports](#).
- In a win for nuclear proponents — notably Georgia Power's Vogtle plant — the bill that would eliminate a 2020 deadline to claim a tax credit for new nuclear power plants.
- The legislation includes the sale of up to \$350 million of crude from the Strategic Petroleum Reserve to fund modernization efforts, as well requiring the sale of an additional 100 million barrels from the tapped reserve to help offset cost.
- Reinstates the 9-cent-per-barrel tax on oil to pay for spill cleanups. The tax, which goes to the Oil Spill Liability Trust Fund, expired at the end of last year. It would go back into effect starting March 1.

THE FALLOUT: The Congressional Budget Office said Thursday the budget deal would cost nearly \$320 billion over a decade and would reduce mandatory spending by

nearly \$47 billion over 10 years even as it balloons discretionary spending, Pro's Sarah Ferris [reports](#). (Read the CBO score [here](#).) And the energy tax provisions that made their way into Congress' budget deal would cost more than \$11 billion over the next decade, according to [estimates](#) from the Joint Committee on Taxation. The biggest portion of that is the retroactive, one-year extension of a set of income and excise tax credits for biodiesel and renewable diesel. Read the further breakdown of the cost [here](#).

IT'S UP TO YOU: Senate Finance ranking member [Ron Wyden](#) passed the buck when asked whether the tax extenders in the budget deal would be Congress' last bite at the apple in that area. "You gotta ask [House Ways and Means] Chairman [[Kevin Brady](#)]. His chickens are coming home to roost," he told reporters. Wyden's referring to Brady's promise the tax bill would do away with a host of tax breaks and exemptions for specific industries permanently, which didn't come to pass in the final version.

WELCOME TO FRIDAY! I'm your host Kelsey Tamborrino, and Entergy's Rob Hall was first to guess 16 nations participated in the first Winter Olympics. For today: In what year did the first official congressional override of a presidential veto occur? Send your tips, energy gossip and comments to ktamborrino@politico.com, or follow us on Twitter [@kelseytam](#), [@Morning_Energy](#) and [@POLITICOPro](#).

OPTIMISM OVER WHEELER: Senate EPW Chairman [John Barrasso](#) is exuding confidence EPA deputy nominee Andrew Wheeler will escape the fates of Kathleen Hartnett White and Michael Dourson by getting a floor vote in the near future. "I think we'll get there, yes I do," he told ME. "Sen. [[Tom](#)] [Carper](#) and I are working together to make sure it happens." Remember Carper [indicated](#) he wanted some additional information from Pruitt before considering a time agreement to fast-track Wheeler's floor consideration.

EPA CLOSES VEGAS RESEARCH FACILITIES: EPA's research division will shutter all operations at its Las Vegas laboratory by the end of the fiscal year, Pro's Alex Guillén reports via a Feb. 6 [email](#) from the head of EPA's National Exposure Research Laboratory. "The drivers behind the decision are the continued pressure to reduce the amount of federally leased space by consolidating operations into federally owned space and to reduce our overall operational costs moving forward," Tim Watkins wrote in the email.

EPA confirmed the closure: "EPA is consolidating services into EPA-owned buildings in Cincinnati, Ohio and Research Triangle Park, NC. This decision will save taxpayer dollars and streamline layers," EPA spokeswoman Liz Bowman said in a statement. The Las Vegas staff can relocate to another EPA facility this summer, she said. Read [more](#).

CANADIANS FILE TO BLOCK SOLAR TARIFF: A trio of Canadian solar manufacturers this week [challenged](#) the Trump administration's imposition of tariffs in the International Court of Trade. The companies say the tariff violates NAFTA, and the majority of the International Trade Commission found that Canadian solar

manufacturers did not constitute a sufficient quantity of U.S. solar imports as to cause injury. They call on the court to enjoin the tariffs and for an expedited resolution of the case.

Why now? Customs and Border Protection began collecting the tariff on Wednesday, thus creating the injury that allows the Silfab Solar Inc., Heliene Inc. and Canada Solar Solutions Inc. to file their complaint.

AND THE EU WANTS A WORD, TOO: The European Union on Thursday became the fourth WTO member to formally ask the United States to discuss compensation for trade losses that result from President Donald Trump's safeguard measures on solar equipment. It joined China, Taiwan and South Korea, which have already made a similar request. Article 8.1 of the WTO Agreement on Safeguards requires countries proposing to impose a safeguard measure, like Trump's restrictions on solar and washing machine imports, to compensate other WTO members for trade losses. That could be in the form of reduced duties on products of interest to those countries.

If no agreement is reached on compensation within 30 days of their requests, the EU, China, Taiwan and South Korea could begin proceedings to impose retaliatory tariffs on the United States. But those tariffs could not be imposed unless the parties prove to a WTO dispute settlement panel that the United States applied the restrictions in a way that violated the safeguards agreement.

BY THE POWER VESTED IN PERRY: Energy Secretary Rick Perry is considering using his authority under Section 202 of the Federal Power Act to provide emergency compensation for FirstEnergy Solutions coal-fired power plants that are in danger of shutting, Bloomberg reports. After Perry's plan to bail out coal plant in the name of grid resiliency failed to win the support of FERC, the Department is considering this option, people familiar with the option told the newswire. Agency spokeswoman Shaylyn Hynes denied the report, saying "that is not correct information," but declined to provide details. Coal magnate Bob Murray, whose company Murray Energy sells coal to some of the First Energy plants, has called on the administration to the power under Section 202 to order the power plants to operate. Read the story here.

WOTUS OPPONENTS PUT BACKUP PLAN IN PLACE: Critics of the Obama administration's controversial water rule are mounting a double-pronged attack in a bid to keep the regulation from going into effect now that an appellate court stay freezing the rule could be lifted as soon as next week. While the Trump administration has moved to delay the 2015 rule administratively — a move that legal experts say could be on shaky ground — industry groups from the American Farm Bureau Federation to the American Petroleum Institute to the National Home Builders Association this week asked the U.S. District Court for the Southern District of Texas to issue a nationwide preliminary injunction for the rule. Pointing to the multiple steps the Trump administration is taking with respect to the rule and the many lawsuits expected over them, the groups argue that they are facing "paralyzing uncertainty" that could last for years and risk not only civil fines but also criminal charges for acting in the meantime.

While the Trump administration is apt to agree with the industry groups, there will be someone in court to oppose the injunction request: The Natural Resources Defense Council and the National Wildlife Federation have both intervened in the case.

DOC OF THE DAY: House Democrats unveiled their own infrastructure plan Thursday, ahead of the White House plan expected to arrive Monday with Trump's budget plan. Read it [here](#).

WHERE'S RYAN ZINKE? The Interior secretary will make a "major conservation announcement" today at the Western Conservation and Hunting Expo in Salt Lake City.

— **EPA Administrator Scott Pruitt will meet with** the president today at 3:30 p.m.

WEST COASTING: The California Coastal Commission joins the chorus of West Coast regulators telling the Interior Department to cool its jets on opening the Pacific to oil and gas drilling. The commission, which oversees the use of public coastal regions, approved [a letter](#) addressed to BOEM reminding that agency of the oil spill that occurred in the waters near Santa Barbara in 1969. It now joins California Gov. Jerry Brown, Attorney General Xavier Becerra and others state lawmakers in pressuring Zinke to give it the same treatment he tried giving Florida and taking it out of the offshore drilling plan proposal. "If offshore drilling poses a rise to Florida's economy, the risk to California's is three times greater," the commission's chair tells Interior.

METHANE ANNOUNCEMENT ON TAP: An official announcement on Interior's planned changes to the Obama-era methane rule could be released soon, Pro's Ben Lefebvre reports. The agency's proposed change cleared OMB on Thursday, according to [the agency's website](#). Interior has made clear it intends to roll back or significantly soften the BLM rule on methane emissions from wells and pipelines that was finalized in November 2016. Read [more](#).

LAW AND ORDER: EPA: EPA published its enforcement report on Thursday for fiscal 2017, calling last year one of its best over the last decade on enforcement — though figures were bumped up by the Volkswagen emissions cheating case that started during the Obama administration, Pro's Alex Guillén [reports](#). EPA secured \$20 billion from companies to fund pollution controls and remediation as part of enforcement agreements. Of that, nearly \$16 billion was connected to the Volkswagen scandal. It was the second-highest relief level in a decade, behind only 2011.

The agency also assessed administrative or judicial penalties of \$1.6 billion last year — again, the second-highest year in a decade, behind 2016 when the figures were boosted by a \$5.7 billion penalty against BP over its Gulf of Mexico oil spill. Read the report [here](#).

GOVERNORS CALL OUT REORG PLAN: A bipartisan group of Western state governors say Zinke did not consult them about his plans for reorganizing the agency, the Associated Press reports. In a letter dated Feb. 1 from the Western Governors Association, the group says they had asked Zinke in April 2017 to be consulted on any reorganization of the department and said the secretary had not sought out their views. A spokesman for the group told the AP they still haven't received a response from Zinke as of Thursday. More from AP [here](#) and read the letter [here](#).

BLOWING IN THE WIND: AT&T [on Thursday said](#) it would purchase 520 megawatts of wind power through two agreements with NextEra Energy Resources subsidiaries — 220 MW of power will come from the Minco V Wind Farm in Oklahoma and 300 MW from a wind farm in Webb and Duval Counties in Texas. The telecom company touted the deal as "one of the largest corporate renewable energy purchases in the U.S.," and comes as part of its goal "to develop and leverage technology solutions that enable carbon savings 10 times the footprint of our operations by 2025."

SKI PATROL: New analysis by the Climate Impact Lab finds the number of days at or below freezing in some of the most popular U.S. ski towns will decline by weeks — or even a month — within 20 years. Read the analysis [here](#).

MAIL CALL: More than 100 people from communities suffering from PFCs in their water signed [a letter](#) Thursday to congressional appropriators demanding the protection of EPA's Integrated Risk Information System program in the fiscal 2018 funding bill.

— **New York Sen. [Kirsten Gillibrand](#) and Rep. [Louise Slaughter](#)** launched a bipartisan effort Thursday to try to get the administration to exempt New York from the Trump administration's offshore drilling plan. The letter was joined by more than 20 members of the House and Senate. Read it [here](#).

— **Sen. [Bernie Sanders](#) sent a letter to the president Thursday** urging him to fund the Low Income Home Energy Assistance Program in his upcoming budget, by no less than \$5.1 billion. Read it [here](#).

MOVER, SHAKER: Michelle DePass, who was assistant EPA administrator for international and tribal affairs during former President Barack Obama's first term, has been named president and CEO of Meyer Memorial Trust in Oregon.

QUICK HITS

— How to read between the lines when Pruitt talks about climate science, [The New York Times](#).

— Drilling foes, supporters say Florida still in play, [News4Jax](#).

— PG&E's federal tax break would go to customers under new bill, [San Francisco](#)

Chronicle.

— Canada trims pipeline reviews as industry seeks more details, Bloomberg.

— Trump DOJ passes on perjury prosecution of ex-chairman, E&E News.

— Forest Service consents to mineral drilling near volcano, The Daily News.

HAPPENING TODAY

8:30 a.m. — Nuclear Regulatory Commission meeting of the Advisory Committee on Reactor Safeguards, 11545 Rockville Pike

9:00 a.m. — Johns Hopkins University hosts workshop on energy and climate issues, 1619 Massachusetts Avenue

12:00 p.m. — The National Capital Chapter of the U.S. Energy Economists hosts its February lunch, 425 7th St NW

12:00 p.m. — R Street and CAP discussion on conservation and the 2018 farm bill, Congressional Meeting Room South

THAT'S ALL FOR ME!

To view online:

<https://www.politicopro.com/newsletters/morning-energy/2018/02/shutdown-we-hardly-knew-ye-098003>

Stories from POLITICO Pro

GOP rips Rand for shutdown Back

By Burgess Everett | 02/08/2018 02:44 PM EDT

Rand Paul took a stand, consequences be damned. And Senate Republicans are livid about it.

After driving the government into a brief shutdown over his demand for an amendment to cut government spending, the Kentucky Republican took friendly fire from a significant number of his Republican colleagues for delaying an inevitable passage vote in the Senate. They accused the senator of misusing the Senate's time for no real reason other than to draw attention himself.

"It's a colossal waste of time," said Sen. John Thune (R-S.D.). "He never gets a result."

"He's tilting at windmills. Don Quixote, you know," said Sen. Richard Shelby (R-Ala.).

The Paul-driven shutdown, however short it may be, was sparked by the libertarian-leaning senator's insistence that Senate Majority Leader Mitch McConnell (R-Ky.) grant him a vote to amend a budget deal that includes more than \$300 billion in new spending over two years. McConnell refused, reasoning that would open up the bill to too many amendments. In turn, Paul declined to allow a vote before midnight, when government funding expired.

Asked if he's worried about singlehandedly inheriting the blame for a shutdown, Paul replied: "No. I think it's an important enough thing that we should have a discussion over."

"Somebody's got to stand up and fight," Paul said in an interview.

While Paul received some praise from allies like Sens. Ted Cruz (R-Texas) and Mike Lee (R-Utah) for his latest stand, several Republican senators criticized him on the Senate floor. Even McConnell got in on the action, reminding the Senate that President Donald Trump supports the bill and Paul "does not join the president in supporting the bill."

After the midnight deadline, McConnell introduced Rep. Thomas Massie (R-Ky.), a Paul ally, to a pair of senators on the Senate floor with a trademark crack about Paul's current low standing among congressional Republicans.

"I want to introduce you to a congressman who likes the senator from Kentucky," McConnell said with a grin.

As soon as Paul began speaking, McConnell left the Senate floor. Paul was unmoved by the internal criticism and blamed his party for abandoning its deficit hawk ways now that it is in power.

"The hypocrisy is astounding. Every one of these Republicans complained about President Obama's deficits," Paul said.

Because the budget deal was filed on late Wednesday, the Senate needed consent from all 100 senators to hold a vote before the midnight funding deadline, giving Paul significant leverage to make his point that the Senate should be more open to debate.

As the shutdown neared, Paul's colleagues ganged up on him as they grew increasingly frustrated with a member of their own party. Senate Majority Whip John Cornyn (R-Texas) blamed Paul directly for "wasting everybody's time."

"It's just grossly irresponsible," Cornyn told reporters, explaining why Republicans would not grant him his amendment. "Why reward bad behavior?"

Sen. Lindsey Graham (R-S.C.) said Paul is waging his fight "probably to help Rand

Paul."

And Cornyn, McConnell, Graham and Sen. Thom Tillis (R-N.C.) tried repeatedly to set up a vote before the shutdown deadline. Each time, Paul objected, much to Tillis' frustration.

"Do you want to be a senator that wants to make a point or you want to make a difference? You know what? I don't see how points alone can make a change in America," Tillis fumed on the Senate floor. "You can make a point all you want. But points are forgotten. There's not a whole of history books about the great points of the American Senate."

After Paul withstood a barrage of criticism from his colleagues, the like-minded Lee came to the floor to defend him. He said individual senators are "left out of the process" and left with a binary choice of voting yes or no, with no alterations to legislation.

"Rand has every right to do what he's doing. He's making some good points," added Sen. John Kennedy (R-La.). "I'd rather that there not have been a shutdown. But it's not much of a shutdown."

Despite the celebration among many lawmakers in both parties about the massive \$300 billion budget deal reached Wednesday, leaders miscalculated by waiting until the last minute and hoping Paul would go along. The result was the second government shutdown in a period of three weeks, though it will likely be brief. The House is expected to vote sometime Friday morning.

"I'm not advocating for shutting down the government. I'm also not advocating for keeping the damn thing open and borrowing a million dollars a minute. This is reckless spending that is out of control," Paul said on Fox News.

Some of Paul's colleagues said they were less concerned because of the short nature of the expected shutdown.

"I would be more critical if I thought this was shutting down government for a period of time," said Sen. Jerry Moran (R-Kan.).

Paul's one-man bout of brinkmanship is just the latest lonely stand for the libertarian-leaning senator who's briefly caused a shutdown of surveillance programs, opposed Republican budgets and upset GOP leaders' plans to repeal Obamacare last year. But Paul said his colleagues' budget deal is causing uncertainty in the stock market and stated that "this country is going to hell in a hand basket" with such profligate spending.

Paul insisted McConnell was not angry with him over the row.

"We get along fine," Paul said.

Paul had been threatening to block quick passage all day, and then gave an interview to Fox News just before 5 p.m. that sealed Congress' course. Shortly after Paul went on Fox, he marched to the Senate floor with a series of charts about how much he dislikes the bill. He spoke for more than an hour.

"Your grandkids are being stuck with the bill! Mark my words, the stock market is jittery" over the debt, Paul said. "It's worth a debate whether we should borrow a million dollars a minute."

Paul spoke to Trump on Thursday, and urged the president to direct McConnell to grant a vote on his amendment.

And he admitted that his amendment would only get 15 to 20 votes. But he is discouraged by the lack of debate and ability to amend such a large budget deal.

Yet with just hours to go before funding expired, GOP leaders were in no mood to open up the amendment process. Democrats also wanted to amend the bill if Paul was allowed to.

"It's hard to make an argument that if one person gets an amendment, that everybody else won't want an amendment," said Senate Minority Leader Chuck Schumer (D-N.Y.).

Republicans tried to accommodate Paul with a procedural "budget point of order" vote that would easily fail, but Paul resisted, preferring to use the Senate floor and the ticking clock to garner attention for his lonely cause.

John Bresnahan, Seung Min Kim and Ayanna Alexander contributed to this report.

To view online [click here](#).

[Back](#)

Racehorses, rum, honeybees: The surprises in the budget bill [Back](#)

By POLITICO Staff | 02/08/2018 02:27 PM EDT

Doctors. Honeybees. A small Christian college in Kentucky. Racehorses. The rum industry. The Federal Reserve. Livestock producers. Advocates of nuclear energy. Critics of the federal budget process. They all got a piece of the massive budget bill that will be voted on as soon as Thursday.

Born of bipartisanship and propelled by a "must-pass" urgency, the measure, which

includes disaster relief and stopgap spending, has been loaded up with little-noticed deals for lawmakers' favorite causes.

Fiscal hawks can balk. But the breadth of the grab bag is seen as essential to successful passage of the two-year deal, H.R. 1892 (115), to lift budget caps — a move that would free Congress to finally start writing more granular funding levels for the fiscal year that started months ago.

The list includes:

Tax breaks comeback

— The revival of tax credits for maintaining short-distance railroad tracks that feed long-haul routes, tax breaks for producing rum and write-downs for racehorses and auto-racing venues.

— Renewal of a tax deduction for mortgage insurance and a tax credit for miner rescue teams.

Doctors and drugmakers

— A win for the American Medical Association and other doctor groups, who persuaded senators to drop a provision that would have let the Centers for Medicare and Medicaid Services shift Medicare money from high-paying specialties to more primary care services or implement an across-the-board cut.

— Language forcing the pharmaceutical industry to pay 70 percent of the cost of drugs for seniors in Medicare's coverage gap a year early.

— The repeal of Obamacare's Independent Payment Advisory Board, the controversial initiative that would have removed some power over Medicare's purse strings from Congress. The panel was never put into effect.

College carve-outs

— Two provisions that appear aimed at protecting colleges in Senate Majority Leader Mitch McConnell's home state. One would shield Berea College, a small Christian college that serves low-income students, from a new tax on wealthy university endowments by exempting schools that don't charge tuition. Another is narrowly crafted student default language that appears to apply only to Southeast Kentucky Community and Technical College.

— In the disaster aid portion of the bill, forgiveness of loans made to four historically

black colleges and universities in response to Hurricane Katrina in 2005.

Honeybees, fish and cattle

— A provision secured by Sen. [Jerry Moran](#) (R-Kan.) to remove a \$125,000 cap on payments to livestock producers under the Livestock Indemnity Program and to expand it to cover animals sold at a lower price in the event of a natural disaster.

— A \$20 million annual cap on the Emergency Assistance for Livestock, Honey Bees and Farm-Raised Fish program that would be lifted.

Hurricane help

— An additional \$64 million for U.S. Immigration and Customs Enforcement to repair facilities in Puerto Rico, the U.S. Virgin Islands, Texas and Florida, among other storm-related expenses.

— Another \$25 million for the inspector general's office to probe fraud and abuse tied to relief funding.

Nukes and oil

— A win for nuclear proponents with a section of the bill that would eliminate a 2020 deadline to claim a tax credit for new nuclear power plants. The Vogtle reactors, the only ones under construction in the country, are not expected to be online by then.

— The sale of up to \$350 million from the Strategic Petroleum Reserve to fund modernization efforts, as well require the sale of an additional 100 million barrels from the oft-tapped reserve to help offset the budget package's cost.

— A 9-cent-per-barrel tax on oil to pay for spill cleanups. The tax, which goes to the Oil Spill Liability Trust Fund, expired at the end of last year. It would go back into effect starting March 1.

Social services

— An extension by five years of a program that gives roughly \$400 million annually to fund community health workers to help at-risk pregnant women and families navigate the social safety net.

The Fed

— A cap on the Federal Reserve's surplus at \$7.5 billion, resulting in a \$2.5 billion offset for the government.

Fiscal dysfunction

— A special congressional committee to tackle budgetary dysfunction, following through on a pledge House Speaker [Paul Ryan](#) made at a closed-door GOP conference meeting this week.

Jennifer Scholtes, Aaron Lorenzo, Benjamin Wermund, Dan Diamond, Quint Forgey, Catherine Boudreau, Nick Juliano, Kimberly Hefling, David Pittman, Ted Hesson and Anthony Adragna contributed to this report.

To view online [click here](#).

[Back](#)

Energy tax extenders included in budget deal [Back](#)

By Nick Juliano | 02/08/2018 07:58 AM EDT

The massive budget deal Senate leaders unveiled overnight would reinstate a variety of energy tax extenders for last year and modify credits for nuclear energy and carbon capture projects.

The bill, [H.R. 1892 \(115\)](#), includes a variety of "orphaned" tax extenders that were left out of a 2015 deal to phase out the wind and solar tax credits. The bill allows biomass, geothermal, waste-to-energy and qualified hydro projects to claim the production tax credit for 2017. For technologies including fiber-optic solar, qualified fuel cells and small wind projects that claim the investment tax credit, it will be phased out through 2022, on the same schedule as other solar projects.

The bill also reinstates for 2017 several other tax credits to promote energy efficiency investments and biofuel production, among other technologies.

Nuclear proponents scored a win with a section of the bill that eliminates a 2020 deadline to claim a tax credit for new nuclear power plants. The Vogtle reactors, the only ones under construction in the country, are not expected to be online by then.

The bill also includes language expanding a tax credit for carbon capture and sequestration and enhanced oil recovery that had been sought by lawmakers on both sides of the aisle.

To view online [click here](#).

[Back](#)

CBO: Spending deal would cost \$320B over decade [Back](#)

By Sarah Ferris | 02/08/2018 05:02 PM EDT

The budget deal Congress is poised to clear would cost nearly \$320 billion over a decade, according to the Congressional Budget Office.

The bill would reduce mandatory spending by nearly \$47 billion over 10 years even as it balloons discretionary spending, CBO [reported](#) Thursday.

That means many of the extra policy provisions tucked into Congress' spending deal, [H.R. 1892 \(115\)](#) — including renewal of dozens of expiring tax credits, reauthorization of health programs and relief for the agriculture industry — would not add to the deficit.

That mandatory savings, however, would put a small dent in the nearly \$359 billion in new discretionary spending — the money Congress appropriates.

The deal would include an additional \$300 billion for domestic and defense budgets over two years, busting sequester-era spending caps for non-defense programs.

While the measure includes \$89 billion in disaster aid, CBO estimates those provisions would increase actual outlays by about \$68 billion.

In order to pass the bill, congressional leaders have proposed waiving pay-as-you-go rules, which require offsets for all new spending.

The vast majority of the budget deal's savings — about \$53 billion over a decade — is the result of extending Congress' mandatory sequester. Another \$8.5 billion is the result of prolonging user fees, as well as \$3.3 billion from aviation security fees. Selling oil from the Strategic Petroleum Fund would bring in \$6.3 billion.

Language extending several Medicare policies would provide about \$38 billion in offsets. That would pay for the entire health package within the more than 650-page bill, including funding for an extension of the Children's Health Insurance Program and community health centers, and repealing the much-maligned Independent Payment Advisory Board.

GOP leaders have said the budget deal includes roughly \$100 billion in offsets to pay for most of the \$128 billion in additional domestic spending.

The CBO has not estimated the cost of raising the debt ceiling through March 2019, as laid out in the bill.

To view online [click here](#).

[Back](#)

JCT: Energy tax provisions cost \$11B [Back](#)

By Nick Juliano | 02/08/2018 03:18 PM EDT

Energy tax credits in the budget deal Congress is considering will cost about \$11 billion over the next decade, according to [estimates](#) from the Joint Committee on Taxation released Thursday.

The most expensive piece of the energy package is a retroactive, one-year extension of a set of income and excise tax credits for biodiesel and renewable diesel. JCT says reinstating those so-called 25D credits for 2017 will cost nearly \$3.3 billion in lost revenue to the government.

Extending tax credits for residential clean energy technologies such as geothermal heat pumps will cost close to \$3.2 billion over the next 10 years, according to JCT, making it the second-most expensive energy provision included. The credit, which expired at the end of 2016 for some technologies, will now be phased out through 2021.

The bill also extends and phases out a set of "orphaned" technologies that had been eligible for the investment tax credit but were left out of a 2015 law. Applying the phaseout to technologies such as fuel cells and small wind systems will cost about \$1.3 billion over the next decade, JCT estimates.

JCT said it will cost about \$689 million over a decade to expand a tax credit for carbon capture and sequestration and enhanced oil recovery. The budget deal includes bipartisan language to increase the value of the credit to from \$10 to \$35 for carbon used in enhanced oil recovery, and from \$20 to \$50 for other geologic storage, and it makes it easier for companies to claim the credit.

Removing the expiration date of a nuclear energy production tax credit — which will allow the under-construction Vogtle reactors to qualify — will reduce revenues by \$637 million over the next 10 years, according to JCT. But those costs do not begin accumulating in earnest until around 2024.

Reinstating an excise tax credit for alternative fuels and mixtures for last year will cost about \$555 million, according to JCT.

Another set of home efficiency credits, known as 25C, would be reinstated for 2017 in

the bill, at an estimated cost of \$542 million over a decade.

Several other energy extenders included in the package carry price tags of less than a half-billion dollars apiece.

To view online [click here](#).

[Back](#)

Senate panel again advances Wheeler for EPA deputy on party-line vote [Back](#)

By Alex Guillén | 02/07/2018 10:14 AM EDT

The Senate Environment and Public Works Committee today advanced Andrew Wheeler's nomination to be EPA deputy administrator by a party-line vote of 11-10.

Sen. [Tom Carper](#) (D-Del.) said he hopes Wheeler can comment further on EPA actions targeted in Murray Energy's coal memo to the Trump administration, including EPA's greenhouse gas endangerment finding and mercury rule. Wheeler said last year that he attended meetings on the memo, but did not write the company's pitch.

Carper said such assurances could lead to a "possible time agreement" to advance Wheeler's nomination on the floor.

The panel [previously approved](#) his nomination by a party line 11-10 vote in November, but Wheeler did not advance on the floor before the end of last year's session, prompting his re-nomination.

As reported in [Morning Energy](#), Wheeler contributed last year to panel chairman [John Barrasso](#)'s re-election campaign and Sen. [Jim Inhofe](#)'s leadership PAC. Wheeler formerly worked as a top staffer to Inhofe at EPW before moving in 2009 to Faegre Baker Daniels, where he is an attorney and lobbyist.

Both donations occurred before his formal nomination, but after POLITICO [reported](#) that Wheeler topped the White House's list for that post, according to FEC records.

WHAT'S NEXT: Wheeler awaits a final floor vote. It is unclear when that may happen.

To view online [click here](#).

[Back](#)

EPA to shutter all Las Vegas research operations [Back](#)

By Alex Guillén | 02/08/2018 05:16 PM EDT

EPA's research division will shut down all operations at its Las Vegas laboratory by the end of the fiscal year, according to an [email](#) from the head of EPA's National Exposure Research Laboratory obtained by POLITICO.

"Earlier today I met with our staff in Las Vegas to let them know that ORD will be ending all operations in Las Vegas as of September 30, 2018," wrote Tim Watkins in the Feb. 6 email. The move expands a previous decision to end NERL's work in Las Vegas, and now includes other research staff based there, as well as non-federal employees who work out of the facilities, according to the email.

"The drivers behind the decision are the continued pressure to reduce the amount of federally leased space by consolidating operations into federally owned space and to reduce our overall operational costs moving forward," Watkins wrote.

EPA confirmed the closure.

"EPA is consolidating services into EPA-owned buildings in Cincinnati, Ohio and Research Triangle Park, NC. This decision will save taxpayer dollars and streamline layers," EPA spokeswoman Liz Bowman said in a statement. The Las Vegas staff can relocate to another EPA facility this summer, she said.

NERL is based out of Research Triangle Park, and has locations in Cincinnati and Athens, Ga.

It was not immediately clear how many employees are affected; [EPA's website](#) indicates 166 people work at the Las Vegas lab, though some may have already departed given the previous decision to close some of the research operations.

Administrator Scott Pruitt was in Las Vegas on Monday and Tuesday. EPA did not say whether Pruitt visited the facility.

To view online [click here](#).

[Back](#)

Interior methane waste rule change clears OMB [Back](#)

By Ben Lefebvre | 02/08/2018 03:29 PM EDT

The Interior Department's proposed change to an Obama-era rule on methane emissions has cleared the Office of Management and Budget, according to [OMB's website](#), indicating an official announcement could come soon.

Interior has made it clear that it would roll back or significantly soften the Bureau of Land Management rule on methane emissions from wells and pipelines that was finalized in November 2016. Interior has delayed enforcing it after Congressional Republicans failed to kill the rule using a Congressional Review Act in May,

Environmental groups and state attorneys general have already pledged to sue any attempt to repeal the rule.

WHAT'S NEXT: Interior will announce its planned changes to the rule.

To view online [click here](#).

[Back](#)

EPA posts one of top enforcement years in last decade, helped by VW settlement

[Back](#)

By Alex Guillén | 02/08/2018 03:06 PM EDT

EPA today reported that 2017 was one of the agency's best years in the last decade on enforcement, though the figures were bumped up by the Volkswagen emissions cheating case that was begun under the Obama administration.

The agency secured \$20 billion in spending by companies to fund pollution controls and remediation as part of enforcement agreements. Of that, nearly \$16 billion was connected to the Volkswagen scandal. It was the second-highest relief level in a decade, behind only 2011.

EPA also assessed administrative or judicial penalties of \$1.6 billion last year — again, the second-highest year in a decade, behind 2016 when the figures were boosted by a \$5.7 billion penalty against BP over its Gulf of Mexico oil spill. Criminal fines were nearly \$3 billion last year, the third-biggest year in a decade, also helped by the Volkswagen penalty.

The number of federal inspections continued a six-year decline, falling to 11,700 last year. Inspections in 2007 and 2010 each topped 20,000. The figure does not include state inspections.

Critics argue that 2017's results benefited from Obama-era actions. In an email to reporters on Wednesday, former EPA enforcement chief Cynthia Giles said that the Trump administration "can only reasonably take credit for 5 [percent] - or less - of the most important results."

It is fair for EPA to include those numbers in the 2017 report, Giles added, but she said

it would be "misleading" to argue "that these numbers show that Administrator [Scott] Pruitt is enforcing the law."

To view online [click here](#).

[Back](#)

Was this Pro content helpful? Tell us what you think in one click.				
Yes, very	Somewhat	Neutral	Not really	Not at all

You received this POLITICO Pro content because your customized settings include: Morning Energy. To change your alert settings, please go to <https://www.politicopro.com/settings>

This email was sent to grantham.nancy@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

To: Idsal, Anne[idsal.anne@epa.gov]
From: Gray, David
Sent: Tue 1/16/2018 12:40:44 PM
Subject: FW: Morning Energy: Solar decision won't be the end — Senators eyeing omnibus for flood control project revival — Frowns for FirstEnergy

By Kelsey Tamborrino | 01/16/2018 05:43 AM EDT

With help from Darius Dixon and Alex Guillén

SOLAR DECISION WON'T BE THE END: President Donald Trump will make a consequential decision this week on whether to place trade barriers on solar equipment imports. But while whatever he decides could be a potential setback to the young sector as federal subsidies shrink, it's not likely to be the kiss of death that some advocates had feared.

Here's the background: Back in October, the U.S. International Trade Commission recommended a combination of quotas and tariffs up to 35 percent on imports of solar cells and panels. Many in the solar industry warned such a blow would hike costs for "the clean energy systems and wipe out up to a third of the solar jobs in the U.S.," Pro's Eric Wolff reports. "But panels are only one part of the total cost of building a solar installation, and they now make up less than 20 percent of the overall price of a home system and about one-third the cost of a large, utility-scale plant."

"I wouldn't characterize it as an end-game scenario," said Timothy Fox, a vice president and analyst at ClearView Energy Partners. Eric points out the ITC recommendations are far weaker than the 32-cent-per-watt tariff and import cap sought by the companies that lodged the trade complaint, Suniva and SolarWorld Americas. "Under Section 201, the section of the Trade Act the companies used to file their complaint, the maximum tariff that can be tacked on is 50 percent, a level that if imposed would likely raise the cost of the largest solar power plants by about 15 percent and a little more than 5 percent for the average home system," Eric writes.

What Trump could do: The president can impose a quota on import levels at the average of the last three years, though he could go beyond that if he can come up with a justification that might be valid to the World Trade Organization, according to trade attorney Terry Stewart. The law allows those tariffs to last for four years. The president, meanwhile, has been pressing his staff to find tariffs he can impose on Chinese companies, Eric reports. Some speculate that Trump may choose to impose only modest barriers on solar, and instead seek more onerous tariffs in the coming weeks for aluminum and steel imports. Read [more](#).

WELCOME TO TUESDAY! I'm your host Kelsey Tamborrino. Bracewell's Frank Maisano was the first to know North Dakota is home to the Great Plains Synfuels Plant, the country's only commercial-scale synthetic natural gas producer, where both Sen. [Heidi Heitkamp](#) and former Wyoming Gov. Jim Geringer were both involved as directors for its operator Dakota Gasification Company. I also want to offer my apologies to Frank, who due to an email mix-up last week, neglected to receive credit for knowing Thursday's trivia answer as well. For today: Who are the only mother-son pair to have served simultaneously in Congress? Send your tips,

energy gossip and comments to ktamborrino@politico.com, or follow us on Twitter [@kelseytam](https://twitter.com/kelseytam), [@Morning_Energy](https://twitter.com/Morning_Energy) and [@POLITICOPro](https://twitter.com/POLITICOPro).

OMNIBUS EYED FOR YAZOO: Mississippi senators are eyeing the potential omnibus to revive a controversial flood control project previously vetoed by the EPA during the George W. Bush era. Republican Sen. [Thad Cochran](#) is pushing to bring back the \$220 million Yazoo Backwater Area Pumps project, which would "divert rainwater from an already soggy part of the state into the river, improving farming conditions and reducing flooding in the area," Pro's Annie Snider reports. But the project — [once called](#) by John McCain "one of the worst projects ever conceived by Congress" — has faced considerable backlash for its expensive price tag and for its potential to destroy vital wetlands and wildlife habitats.

The push from Cochran, chairman of the Senate Appropriations Committee, comes as the House GOP considers lifting the earmark ban. The Republican added a rider to one of his committee's spending bills directing the Army Corps of Engineers to "immediately" begin work on the project, Annie reports, and he is pushing for it to be included in an omnibus appropriations bill. House Speaker [Paul Ryan](#) pointed to the Army Corps and its layers of red tape this week when discussing the possibility of lifting the earmark ban, saying the Corps has "not been up to snuff about getting its job done."

With Cochran's ailing health and his chairmanship reaching its term-limit, supporters see opportune timing in the spending fight. Cochran's office says the provision is not an earmark because the project has already been authorized, and because the amendment wouldn't direct any specific amount of money to it. But in the end, "the debate over the Yazoo pumps rider may still resemble a classic earmark fight," Annie writes, "with lawmakers caring less about the merits of a colleague's pet project than that a win for someone else will mean less left for them." Read [more](#).

TAIWAN TO IMPORT MORE GAS: The United States' 10th-largest trading partner will soon start importing more energy from the U.S., Pro's Patrick Temple-West reports. Taiwan's Minister of Economic Affairs Shen Jong-chin told POLITICO that state-owned energy company CPC Corp. has signed a 20-year contract to import liquefied natural gas from the United States, ramping up this year. With the LNG imports, "we believe we can efficiently solve the problem of deficits between Taiwan and the U.S.," Shen said. It's a move that will likely garner support from the Trump administration, given its ability to reduce Taiwan's trade surplus. Read more [here](#).

YOUR OFFSHORE UPDATE: Following his promise to discuss the administration's recent offshore drilling proposal with any and all states that wanted to, Interior Secretary Ryan Zinke spoke with multiple governors on Friday. Washington Gov. Jay Inslee, chairman of the Democratic Governors Association, reiterated his opposition to new drilling in a Friday phone call with Zinke. "I told him the concerns of Washingtonians and West Coast residents deserve be treated with the same consideration and deliberation as those in Florida," Inslee said in a statement. "Secretary Zinke did not provide that commitment, unfortunately. But this fight is far from over." Oregon Gov. Kate Brown's office said Zinke agreed to consider exempting the state after they spoke Friday, [according to](#) the Associated Press.

Zinke also promised Friday to travel to California to visit Gov. Jerry Brown to discuss the agency's plan, Pro's Ben Lefebvre [reports](#). "During the conversation, Gov. Brown asked for the same consideration Florida recently received and noted broad opposition from Republicans, Democrats and Independents across the state to any expansion of oil and gas drilling off of the California coast," Brown's office said. "The Governor invited Secretary Zinke to come to California to continue this constructive conversation in the weeks ahead and the Secretary agreed to a future meeting and visit."

As for whether Zinke will make a trip to Washington anytime soon, Washington State spokeswoman Tara Lee said the governor did not explicitly ask the secretary to visit the state. But it was her understanding that "the governor repeatedly asked the Secretary what information he would need to make a decision or change his mind. It doesn't sound as Sec. Zinke provided that information."

The Bureau of Ocean Energy Management will begin a series of public hearings today to discuss the department's expanded five-year drilling plan. See where and when [here](#).

FROWNS FOR FIRSTENERGY: Last week was bookended by bad news for FirstEnergy. Things started Monday with FERC rejecting the Energy Department's grid proposal, a plan the company had been pushing for to save its coal and nuclear plants. And by quitting-time Friday, FERC [blocked](#) FirstEnergy from selling its Carter-era Pleasants coal-fired power plant from one of its subsidiaries, AE Supply, to another, Monongahela Power. Where AE Supply operates the 1,300-megawatt plant in PJM's competitive market, Mon Power is a top-down electric utility that would be able to shield the plant from the losses in the markets. While it didn't object to efforts to address a potential future power shortfall in the area, FERC said the FirstEnergy companies had not demonstrated that the transfer was "consistent with the public interest," and determined that the process for acquiring additional resources was skewed.

The other interesting wrinkle: The issue got a bit awkward for FERC Commissioner Neil Chatterjee when Bill Scherman, a former FERC general counsel, called him up a day before the decision. According to Chatterjee's [ex parte memo](#), Scherman, a partner at Gibson, Dunn & Crutcher who has been [working](#) for FirstEnergy, said he'd been tipped off that FERC would "issue an order adverse to the interests of Monongahela Power." In the conversation with Chatterjee, Scherman also urged that FERC hold a hearing on the Pleasants transfer request instead of issuing the "adverse order." But Chatterjee followed the rules: "As soon as I realized that Mr. Scherman's communication concerned the merits of the contested proceeding, I terminated the communication and did not respond to Mr. Scherman's statements. I then drafted this memorandum to memorialize the ex parte communication for the record."

FOR YOUR RADAR: Chatterjee and FERC Commissioner Cheryl LaFleur will appear at the Bipartisan Policy Center today to discuss the proposed grid resilience pricing rule. **If you go:** 10 a.m. at 1225 Eye Street NW, Suite 1000.

LET THE MERGER PROCEEDING BEGIN: SCANA made its plans to be bought by Virginia-based Dominion official late last week when the companies [submitted the request](#) to South Carolina regulators. The 690-page petition suggests that the South Carolina Public Service

Commission have a hearing on the merger on April 17. Under the proposal, SCANA's customers would get \$1.3 billion credit from the merger but would still be on the hook for costs related to the abandoned Summer nuclear project.

EPA PROJECTS FINAL OZONE DESIGNATIONS BY APRIL 30: EPA plans to issue the final round of nonattainment designations by April 30, after consulting once more with the states and the public, the agency said Friday in a [court filing](#). The agency named April 30 as its "goal" to finish, the same date environmentalists earlier this month asked the court to set as a hard deadline for EPA to finish. But the administration told the court it needs another week, until this coming Friday, to set a more detailed schedule to meet that date. The final designations will trigger the years-long process for states with nonattainment areas to create and execute plans to reduce emissions.

MONUMENT MOVES: The Bureau of Land Management will publish [two notices](#) in the Federal Register today to push forward land use plans related Utah's Bears Ears and Grand Staircase-Escalante monuments, which the Trump administration is shrinking. BLM will accept comments for a 60-day period ending March 19, or 15 days after the last public meeting, whichever is later. The agency has not yet released dates or locations of meetings.

WHITE HOUSE TAPS FORMER EPW STAFFER: The White House [tapped](#) Frank Fannon on Friday to be an assistant secretary of State on energy resources. Fannon is a long-time Senate staffer, where he served as counsel to the Environment & Public Works Committee under [Jim Inhofe](#) and had an instrumental role in the drafting and passage of the Energy Policy Act of 2005. He became partner of the Coefficient Group in 2017, and was previously head of corporate affairs at BHP Billiton as well as senior director of Murphy Oil Corporation.

RENEWABLES SPEED PAST FOSSIL FUELS: Electricity from renewables will soon be consistently cheaper than that from fossil fuels, a [new report](#) from the International Renewable Energy Agency finds. By 2020, all commercial power generation technologies will fall within fossil-fuel range, with most undercutting or at the lower end, the report found. It found onshore wind power generation costs dropped by a quarter since 2010, while solar photovoltaic electricity costs fell by 73 percent. Within the next two years, the best onshore wind and solar projects will be delivering electricity for 3 cents per kWh. Currently, fossil fuel power generation costs range between 5-17 cents per kWh.

LINING UP: A new report from the Wind Energy Foundation finds more U.S. transmission lines are needed to meet the growing demand for renewables. Specifically, the report found transmission planners are not accounting for up to 51 gigawatts of potential near-term procurement. Read the report [here](#).

MAIL CALL — COUNT US OUT: Virginia Sens. [Mark Warner](#) and [Tim Kaine](#) and Reps. [Donald McEachin](#), [Gerry Connolly](#), [Don Beyer](#), and [Bobby Scott](#) sent a letter to the Trump administration requesting Virginia be exempted from its offshore drilling proposal. The letter, sent Friday, cites concerns over the proposal's effect on the state's tourism, watermen's industry and U.S. Naval operations. Read the text of the letter [here](#).

QUICK HITS

- U.S. charges Maryland businessman with bribing Russian official, [Reuters](#).
- Shell bolsters renewables bet with stake in U.S. solar company, [Bloomberg](#).
- Opinion: How Trump defies his critics on solar, [The Hill](#).
- Battle lines form over FWS mitigation policy, [E&E News](#).
- Huge oil spill left after burning tanker sinks off China, [BBC](#).
- Oil sector keeps open mind on blockchain, [Platts](#).

HAPPENING THIS WEEK

TUESDAY

- Trump meets today with Kazakhstan President Nursultan Nazarbayev at the White House

10:00 a.m. — "[The Domestic and Global Energy Outlook](#)," Senate Energy and Natural Resources Committee, 366 Dirksen

10:00 a.m. — Bipartisan Policy Center hosts FERC Commissioners Neil Chatterjee and Cheryl LaFleur [to discuss](#) the proposed Grid Resiliency Pricing Rule, 1225 Eye Street NW, Suite 1000

12:00 p.m. — The Heritage Foundation hosts a [forum](#) on NAFTA and energy trade, 214 Massachusetts Ave NE

1:30 p.m. — The CSIS Energy & National Security Program hosts a [forum](#) on the International Energy Agency's World Energy Outlook 2017, 1616 Rhode Island Ave NW

WEDNESDAY

10:00 a.m. — House Natural Resources Committee [markup](#) of pending calendar business, 1324 Longworth

10:00 a.m. — "[America's Water Infrastructure Needs and Challenges: Federal Panel](#)," Senate Environment and Public Works Committee, 406 Dirksen

10:00 a.m. — Senate Energy Water and Power Subcommittee [hearing](#) on the Bureau of Reclamation's title transfer process, 366 Dirksen

2:00 p.m. — House Natural Resources Committee [hearing](#) on H.R. 4506, the "Jobs for Tribes Act," 1324 Longworth

THURSDAY

10:00 a.m. — Senate Energy and Natural Resources Committee hearing to consider DOE nominees, 366 Dirksen

10:30 a.m. — United States Energy Association holds its 14th annual State of the Energy Industry forum, 529 14th Street, NW

2:00 p.m. — The CSIS Energy & National Security Program hosts a forum on the Institute of Energy Economics, Japan's Energy Outlook 2018, 1616 Rhode Island Ave NW

5:30 p.m. — Resources for the Future hosts Daniel Raimi, author of "The Fracking Debate," 1616 P St. NW, Suite 600

6:00 p.m. — Leaders in Energy and Potential Energy hold a discussion on "Clean Energy Project Financing: Where the Rubber Meets the Road," 641 S Street NW

FRIDAY

9:00 a.m. — "Deficiencies in the Permitting Process for Offshore Seismic Research," House Natural Resources Energy and Mineral Resources Subcommittee, 1324 Longworth

THAT'S ALL FOR ME!

To view online:

<https://www.politicopro.com/newsletters/morning-energy/2018/01/solar-decision-wont-be-the-end-073922>

Stories from POLITICO Pro

Looming solar trade tariffs seen as no death blow for industry Back

By Eric Wolff | 01/16/2018 05:04 AM EDT

President Donald Trump will decide in the coming days whether to erect trade barriers on solar equipment imports, potentially dealing a setback to the young sector as federal subsidies shrink, but not likely the death blow that some renewable energy advocates have feared.

In October, the U.S. International Trade Commission recommended a combination of quotas and tariffs up to 35 percent on imports of solar cells and panels — which many in the solar industry have warned would hike costs for the clean energy systems and wipe out up to a third of the solar jobs in the U.S.

But panels are only one part of the total cost of building a solar installation, and they now make up less than 20 percent of the overall price of a home system and about one-third the cost of a large, utility-scale plant.

"I wouldn't characterize it as an end-game scenario," said Timothy Fox, a vice president and analyst at ClearView Energy Partners.

The ITC recommendations are far weaker than the measures sought by Suniva and SolarWorld Americas, the two companies that lodged the trade complaint. They called for a tariff of 32 cents per watt along with a cap on imports, which would nearly double the cost of importing panels, putting the panel price close to 80 cents a watt, a level last seen in 2012, according to a [report](#) from the National Renewable Energy Laboratory. Overall, that would raise the cost of building utility-scale plants to levels last seen in mid-2016.

Under Section 201, the section of the Trade Act the companies used to file their complaint, the maximum tariff that can be tacked on is 50 percent, a level that if imposed would likely raise the cost of the largest solar power plants by about 15 percent and a little more than 5 percent for the average home system.

And Trump can also impose a quota to import levels at the average of the last three years, though he could go beyond that if he can come up with a justification that might be valid to the WTO, according to trade attorney Terry Stewart. The law allows those tariffs to last for four years.

The cost of solar power has plunged over the past decade, outpacing even the most optimistic forecasts and setting off a boom in installations that has helped make clean energy technology cheaper than coal and natural gas-fired power in some parts of the country.

And much of that growth has been driven by sharp declines in panel prices built by Chinese companies in factories across Asia — which the ITC said had driven many U.S. panel-makers out of business.

Trump, who must announce his decision by Monday but could act this week, has been pressing his staff to find tariffs he can impose on Chinese companies. Some industry observers have speculated that Trump may choose to impose only modest barriers on solar, and instead seek more onerous tariffs in the coming weeks for aluminum and steel imports.

Suniva and SolarWorld say the limited impact of tariffs is evidence that the rest of the domestic solar industry is overreacting.

"The Suniva/SolarWorld remedies are designed to return market pricing to the early 2016 levels — a period of record solar installation growth, before the U.S. manufacturing industry suffered significant damage from the latest market distortions of 2016-17, caused by massive oversupply as part of the continual and intentional cheating of the trade system by China and its proxies," Mark Paustenbach, a Suniva spokesperson, said in a statement.

Paustenbach added that the prices and quotas proposed by the two companies would allow them to rehire workers and compete in the U.S. marketplace.

The domestic solar industry instead suggests that 2018 has a far different policy context than

2016, especially as both federal- and state-level subsidies phase out.

"It is a myth for one to believe that by supporting tariffs American solar success will follow," said Abigail Hopper, CEO of the Solar Energy Industries Association. "Solar tariffs would be artificially driving up the price of energy, which will decrease demand and lead to significantly less manufacturing and solar installations in the U.S., not more."

And solar industry sources say a lot more was happening in 2016 than just falling module costs. Large solar projects had been rushed into the pipeline in 2015 to get construction started before the end of the Investment Tax Credit, which was slated to expire that year. The credit was extended, but those projects were completed in 2016, helping propel the industry to a record year. At the same time, many state price supports came to an end in 2016 and 2017.

Solar installations in the U.S. hit a record of 14.6 gigawatts of capacity in 2016, and SEIA expects new capacity additions to slip to 12 gigawatts this year.

"One of the expectations by policymakers is, 'We're going to give you these incentives, they're not going to last forever, they're going to step down because we expect you to reduce your costs in order to stand on your own two feet,'" said a solar industry source. "So the entire industry has been working toward that."

Policy changes at the federal level, such as the refocusing of Energy Department initiatives and a shift away from climate policies that had the indirect effect of promoting renewables like solar, are also creating headwinds for the industry in coming years.

"It's important to keep in mind this is happening [in] a very unsettled policy environment," said Ali Zaidi, a former Obama administration official and now an attorney at Morrison Foerster.

"Things happening at DOE, things at EPA — the combination of all those things amplifies the risk of this policy decision going the wrong way."

To view online [click here](#).

[Back](#)

Mississippi senators eye omnibus to revive controversial flood control project [Back](#)

By Annie Snider | 01/16/2018 05:05 AM EDT

As congressional Republicans debate whether to lift their self-imposed ban on earmarks, the Senate Appropriations chief is already taking a swing at advancing one of his pet projects.

[Thad Cochran](#) (R-Miss.) is pushing to revive a controversial \$220 million Mississippi flood control project that had been vetoed by President George W. Bush's EPA. Cochran added a rider to one of his committee's spending bills directing the Army Corps of Engineers to "immediately"

begin work on the project, and he is pushing for it to be included in an omnibus appropriations bill. The government will shut down without a spending deal in place by Friday, but Republicans have already suggested another stopgap measure may be needed to buy more time to work out myriad disagreements over yearlong funding.

The Yazoo Backwater Area Pumps project is a priority for Mississippi lawmakers and has previously won support from President Donald Trump's nominee to run the Army Corps. The pumps would divert rainwater from an already soggy part of the state into the river, improving farming conditions and reducing flooding in the area. But it has faced fierce resistance from budget hawks who say it is too expensive, as well as environmental and sportsmen's groups who say it would destroy vital wetlands and wildlife habitat along the Mississippi River.

Lawmakers have often pointed to the Army Corps of Engineers and its layers of red tape as one of the reasons they need to revive earmarks. House Speaker Paul Ryan did so last week in discussing the possibility of lifting the earmark ban, saying the Corps has "not been up to snuff about getting its job done."

But taxpayers' groups have long argued that the Corps is the epitome of pork-barrel politics. And fiscal hawks pointed to the Yazoo pumps project as a classic example before it was killed. In 2004, Sen. John McCain (R-Ariz.) called the project a "Frankenstein monster," and "one of the worst projects ever conceived by Congress."

With Cochran ailing and facing a term limit as chairman of the powerful spending panel at the end of this year, supporters see the ongoing spending fight as their best opportunity to revive the Yazoo pumps. Cochran's office says the provision is not an earmark because the project has already been authorized and his amendment would not direct any specific amount of money to it.

"Flood control is costly, but it's not as expensive as floods and the damage they cause," Cochran spokesman Chris Gallegos said in an email. "Completing this unfinished flood control project would help protect Mississippians in six Mississippi Delta counties, protect wildlife habitat, and save taxpayers in the long run. The Yazoo Backwater flood control project remains authorized and Congress now has an opportunity to make it a reality."

In the end, the debate over the Yazoo pumps rider may still resemble a classic earmark fight, with lawmakers caring less about the merits of a colleague's pet project than that a win for someone else will mean less left for them.

The rider included in the Senate's draft Interior-Environment spending bill would force the Corps to fund the Yazoo pumps project before other Corps projects. At a time when the agency has tens of billions of dollars' worth of authorized projects awaiting funding and an annual budget that hovers around \$6 billion, that may prove the most controversial aspect of all.

Proponents of the project say it would protect rural communities from flooding. But critics argue its true purpose is to drain farmland in a way that would benefit a small number of large landowners. The Clarion-Ledger, a local newspaper, even came out in opposition, calling the project a "boondoggle."

Meanwhile, environmental and sportsmen's groups say the harm to wetlands that provide crucial habitat to birds would be massive.

"This was absolutely a dead project, and it should be a dead project," said Melissa Samet with the National Wildlife Federation. "It's a prime example of misplaced priorities, and it's pretty mind-boggling."

But R.D. James, who is awaiting Senate confirmation as President Trump's pick to oversee the Army Corps of Engineers, has previously supported the project. Speaking as a member of the Mississippi River Commission, James backed finishing all of the pending projects up and down the Mississippi River and its tributaries, including the Yazoo pumps project, according to the Delta Farm Press.

Roger Wicker (R-Miss.), who joined Cochran in backing James, defended the appropriations rider but said he had not discussed the project with the Army Corps nominee.

"It's a matter of providing farmers and landowners the same certainty that we provide to people all over the country that the flood level not exceed a certain elevation," Wicker said in a brief interview.

The project's fate is now intertwined with the larger battles over an omnibus spending bill.

Democrats count the Yazoo provision among the environmental riders they are vowing to fight in a government funding deal.

"Any omnibus bill that can pass the Senate must remain free of poison-pill policy riders," New Mexico Sen. Tom Udall, the top Democrat on the Interior-Environment spending subpanel, said in a statement.

But it's unclear how high a priority Democrats will place on the issue when so many higher-profile fights, from immigration to defense spending, are in the mix. Even just among environmental riders, Yazoo is unlikely to outrank provisions relating to the Waters of the U.S. rule and sage grouse protections among Democrats.

To view online [click here](#).

[Back](#)

Taiwan to import more U.S. energy, a move likely to please Trump [Back](#)

By Patrick Temple-West | 01/16/2018 05:02 AM EDT

TAIPEI, Taiwan — Taiwan, the 10th-largest U.S. trading partner, is starting to import more

energy from America, a move that could reduce its trade surplus, according to a senior government official.

In an interview with POLITICO, Taiwan's minister of economic affairs, Shen Jong-chin, said CPC Corp., a state-owned energy company, has signed a 20-year contract to import liquefied natural gas from the U.S. and will begin ramping up this year. With the LNG imports, "we believe we can efficiently solve the problem of deficits between Taiwan and the U.S.," Shen said at the MEA's Taipei office this month.

The Trump administration is likely to applaud the development. During the 2016 election and since taking office, President Donald Trump has repeatedly railed against U.S. trade deficits with Mexico, China and other nations, arguing that they mean the U.S. is losing out.

Taiwan's trade deficit with the U.S. was about \$15.5 billion through the first 11 months of 2017, according to the Commerce Department, up from \$12.5 billion over the same period in 2016.

Electricity is a major political issue in Taiwan after an August blackout in Taipei and much of the island. Shen became head of the Ministry of Economic Affairs after his predecessor resigned in the wake of the blackout.

The LNG deal will also be celebrated in big energy-exporting states like Texas. Republican Sen. Ted Cruz has been a strong advocate for Taiwan in standing up to China. Cruz met with Taiwanese President Tsai Ing-wen in Houston in January 2017 despite strong objections from Beijing.

And Taiwan needs all the friends it can get. China regards Taiwan — which broke away from Communist mainland China in 1949 — as an outlaw province. Before he took office, Trump stirred up a diplomatic crisis after he spoke with the president of Taiwan, in a break with more than 35 years of U.S. policy. Eventually, Trump backed down on fighting against Beijing's "one China" stance.

Since Tsai was elected in 2016, China has pressured countries around the world to rename their Taiwanese trade offices with the name "Taipei" instead of Taiwan. Under pressure from China, Nigeria in June ordered Taiwan's top representative to leave the country and forced trade staffers out of the capital, Abuja.

U.S. Trade Representative Robert Lighthizer has expressed support for Taiwan, too. During his confirmation process in March, Lighthizer said he wanted "a stronger bilateral relationship with Taiwan" and to address Taiwan's reluctance to import U.S. beef and pork.

Shen, who said he has not met Lighthizer yet, said he would continue to work on U.S. trade issues through the bilateral WTO trade facilitation agreement. But he added: "We will also use the multilateral channels to improve our bilateral relationship."

The Trump administration has also pulled out of the TPP, in a blow to countries like Taiwan.

Taiwan is fighting to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership — the new TPP that is being negotiated without the U.S. Tsai this month called on Canada to support Taiwan's CPTPP membership.

"We will continue striving to obtain the support of members for Taiwan's participation in the CPTPP," he said.

Shen said Taiwan was also investing \$170 billion in petrochemicals development in India. Trump has in recent months been touting the "[Indo-Pacific](#)" region in an attempt to draw in India as a counterweight to China — an effort that is also likely to please Taiwan.

To view online [click here](#).

[Back](#)

Brown: Zinke to travel to California to talk offshore leases [Back](#)

By Ben Lefebvre | 01/12/2018 05:05 PM EDT

Interior Secretary Ryan Zinke promised to travel to California to visit Gov. Jerry Brown to discuss the agency's plan to sell new leases to explore for oil and gas off the state's coast in the upcoming five-year drilling proposal, Brown's office said today.

Today's telephone conversation with Brown, who has been staunchly opposed to new drilling along California's coast, came after Zinke decided to pull Florida from the plan at the urging of Republican Gov. Rick Scott.

"During the conversation, Gov. Brown asked for the same consideration Florida recently received and noted broad opposition from Republicans, Democrats and Independents across the state to any expansion of oil and gas drilling off of the California coast," Brown's office said.

"The Governor invited Secretary Zinke to come to California to continue this constructive conversation in the weeks ahead and the Secretary agreed to a future meeting and visit."

Zinke was also scheduled to talk to governors from South Carolina and other states whose coasts would be opened up for drilling.

An Interior spokeswoman did not immediately reply to a request for comment.

To view online [click here](#).

[Back](#)

Was this Pro content helpful? Tell us what you think in one click.				
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Yes, very	Somewhat	Neutral	Not really	Not at all

You received this POLITICO Pro content because your customized settings include: Morning Energy. To change your alert settings, please go to <https://www.politicopro.com/settings>

.

.

To: Idsal, Anne[idsal.anne@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]
Cc: Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Hindin, David[Hindin.David@epa.gov]; Seager, Cheryl[Seager.Cheryl@epa.gov]; Gilrein, Stephen[gilrein.stephen@epa.gov]; Edlund, Carl[Edlund.Carl@epa.gov]; Phillips, Pam[phillips.pam@epa.gov]; Welton, Patricia[Welton.Patricia@epa.gov]; Peycke, Mark[Peycke.Mark@epa.gov]
From: Payne, James
Sent: Thur 2/15/2018 10:29:29 PM
Subject: Region 6 - open referrals at DOJ for regulatory and Superfund cases
[Regulatory Open Referrals at DOJ 2-15-2018.xlsx](#)
[Superfund Open Referrals at DOJ 02-15-18a.docx](#)

Anne – as mentioned, attached is an updated tracker of open DOJ referrals for civil regulatory and Superfund cases. These trackers have been cross-checked with DOJ though not yet with OECA. Including Susan B and others here. Jim

To: Idsal, Anne[idsal.anne@epa.gov]
From: Gray, David
Sent: Fri 1/26/2018 10:41:36 PM
Subject: DOJ civil enforcement referrals
Referrals 01-19-18 (002).docx
Referrals Not Concluded excluding SF 1-19-2018cmo (002).xlsx

Forwarding attached lists of open DOJ civil referrals for regulatory enforcement and Superfund.

To: Idsal, Anne[idsal.anne@epa.gov]; Gray, David[gray.david@epa.gov]
Cc: Payne, James[payne.james@epa.gov]; Welton, Patricia[Welton.Patricia@epa.gov]; Overbay, Connie[Overbay.Connie@epa.gov]; Gilrein, Stephen[gilrein.stephen@epa.gov]
From: Seager, Cheryl
Sent: Fri 1/26/2018 9:04:55 PM
Subject: FW: Consent Decrees not Closed Report
[Judicial Conclusions not Closed in ICIS excluding SF 1-19-2018.xlsx](#)
[OPENCD SUMMARY.docx](#)

Anne and David,

I've attached a narrative regarding open consent decrees, along with an excel spreadsheet with the cases listed. You will need to click on the tab at the bottom of the spreadsheet to open the case list. The list includes both active CDs and CDs that are concluded but haven't gone through the termination process with DOJ.

Please let me know if you have any questions.

Cheryl

To: Gray, David[gray.david@epa.gov]; Idsal, Anne[idsal.anne@epa.gov]
From: Seager, Cheryl
Sent: Fri 1/26/2018 8:58:34 PM
Subject: Information request chart
Copy of Information Request List from Share Drive Read Files.xlsx

Anne and David,

I've attached a spreadsheet with all of our information requests, covering the last 5 years. The chart reflects all media, and the current status of the requests. Please let me know if you have any questions.

Cheryl

Cheryl Seager | Director | Compliance Assurance and Enforcement Division | EPA Region 6 | Mail Code 6EN | 1445
Ross Avenue | Suite 1200 | Dallas, TX 75202 | Phone 214-665-3114 |

To: Gray, David[gray.david@epa.gov]
From: payne.james@epa.gov
Sent: Fri 2/2/2018 11:47:17 PM
Subject: Fwd: DOJ civil enforcement referrals
[Referrals 01-19-18 \(002\).docx](#)
[ATT00001.htm](#)
[Referrals Not Concluded excluding SF 1-19-2018cmo \(002\).xlsx](#)
[ATT00002.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Payne, James" <payne.james@epa.gov>
Date: January 26, 2018 at 3:59:25 PM EST
To: "Gray, David" <gray.david@epa.gov>
Cc: "Seager, Cheryl" <Seager.Cheryl@epa.gov>, "Gilrein, Stephen" <gilrein.stephen@epa.gov>, "Welton, Patricia" <Welton.Patricia@epa.gov>, "Peycke, Mark" <Peycke.Mark@epa.gov>, "Edlund, Carl" <edlund.carl@epa.gov>, "Phillips, Pam" <phillips.pam@epa.gov>
Subject: DOJ civil enforcement referrals

Forwarding attached lists of open DOJ civil referrals for regulatory enforcement and Superfund.

To: Seager, Cheryl[Seager.Cheryl@epa.gov]; Gilrein, Stephen[gilrein.stephen@epa.gov]
Cc: Welton, Patricia[Welton.Patricia@epa.gov]
From: payne.james@epa.gov
Sent: Mon 2/12/2018 3:49:14 AM
Subject: Fwd: DOJ civil enforcement referral
[Referrals 01-19-18 \(002\).docx](#)
[ATT00001.htm](#)
[Referrals Not Concluded excluding SF 1-19-2018cmo \(002\).xlsx](#)
[ATT00002.htm](#)

The attached chart of DOJ civil referrals shows as to R6-led cases:

OECA-led cases:

Sent from my iPhone

Begin forwarded message:

From: "Payne, James" <payne.james@epa.gov>
Date: January 26, 2018 at 2:59:25 PM CST
To: "Gray, David" <gray.david@epa.gov>
Cc: "Seager, Cheryl" <Seager.Cheryl@epa.gov>, "Gilrein, Stephen" <gilrein.stephen@epa.gov>, "Welton, Patricia" <Welton.Patricia@epa.gov>, "Peycke, Mark" <Peycke.Mark@epa.gov>, "Edlund, Carl" <edlund.carl@epa.gov>, "Phillips, Pam" <phillips.pam@epa.gov>
Subject: DOJ civil enforcement referrals

Forwarding attached lists of open DOJ civil referrals for regulatory enforcement and Superfund.

To: Seager, Cheryl[Seager.Cheryl@epa.gov]; Gilrein, Stephen[gilrein.stephen@epa.gov]
Cc: Welton, Patricia[Welton.Patricia@epa.gov]
From: payne.james@epa.gov
Sent: Mon 2/12/2018 2:55:32 AM
Subject: Fwd: DOJ civil enforcement referral
[Referrals 01-19-18 \(002\).docx](#)
[ATT00001.htm](#)
[Referrals Not Concluded excluding SF 1-19-2018cmo \(002\).xlsx](#)
[ATT00002.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Payne, James" <payne.james@epa.gov>
Date: January 26, 2018 at 2:59:25 PM CST
To: "Gray, David" <gray.david@epa.gov>
Cc: "Seager, Cheryl" <Seager.Cheryl@epa.gov>, "Gilrein, Stephen" <gilrein.stephen@epa.gov>, "Welton, Patricia" <Welton.Patricia@epa.gov>, "Peycke, Mark" <Peycke.Mark@epa.gov>, "Edlund, Carl" <edlund.carl@epa.gov>, "Phillips, Pam" <phillips.pam@epa.gov>
Subject: DOJ civil enforcement referrals

Forwarding attached lists of open DOJ civil referrals for regulatory enforcement and Superfund.

To: Payne, James[payne.james@epa.gov]
From: Payne, James
Sent: Fri 12/15/2017 8:51:32 PM
Subject: Fwd: RA's Recusal List
OPEN Consent Decrees TEXAS ONLY ALL PROGRAMS excluding SF 12-13-2017.xlsx
ATT00001.htm
Referrals to DOJ - Not Concluded involving TX facilities.xlsx
ATT00002.htm

Sent from my iPhone

Begin forwarded message:

From: "Welton, Patricia" <Welton.Patricia@epa.gov>
Date: December 14, 2017 at 4:06:11 PM CST
To: "Barra, Michael" <barra.michael@epa.gov>
Cc: "Payne, James" <payne.james@epa.gov>
Subject: RA's Recusal List

Potential Recusal List for Incoming RA listed below and in 2 attachments

1. Lazarus Refining (Longview, TX): defunct refinery; corrective action
2. Lindon Nutro Houston (Houston, TX): oil service and chemicals; RCRA endangerment enforcement action
3. BHP Billiton Petroleum (TxLa Operating) Company – CAA enforcement / energy extraction facilities in Texas
4. Burlington Resources Oil & Gas Company – CAA enforcement / energy extraction facilities in Texas
5. Devon Energy Corporation – CAA enforcement / energy extraction facilities in Texas

Attached are the two reports for Judicial Cases in Texas. These are for all enforcement programs, excluding Superfund (CERCLA).

- 1) OPEN Consent Decrees in Texas
- 2) Referral to DOJ – Not Concluded involving Texas Facilities

I don't have the original request so I don't know who it goes to. If any of you see any errors, let me know. I had to do some of these by hand due to ICIS having an issue with Reports function.

Thank you,

Connie M. Overbay

Enforcement Coordinator (6EN)

Compliance Assurance and Enforcement Div.

Region 6

(214) 665-7274

(214) 665-7446 (fax)

To: Seager, Cheryl[Seager.Cheryl@epa.gov]
Cc: Welton, Patricia[Welton.Patricia@epa.gov]
From: Payne, James
Sent: Fri 1/26/2018 8:54:17 PM
Subject: DOJ civil enforcement referrals - open chart
Referrals Not Concluded excluding SF 1-19-2018cmo (002).xlsx

To: Idsal, Anne[idsal.anne@epa.gov]; Bodine, Susan[bodine.susan@epa.gov]
Cc: Larry Starfield (Starfield.Lawrence@epa.gov)[Starfield.Lawrence@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Hindin, David[Hindin.David@epa.gov]; Seager, Cheryl[Seager.Cheryl@epa.gov]; Gilrein, Stephen[gilrein.stephen@epa.gov]; Edlund, Carl[edlund.carl@epa.gov]; Phillips, Pam[phillips.pam@epa.gov]; Welton, Patricia[Welton.Patricia@epa.gov]; Peycke, Mark[Peycke.Mark@epa.gov]
From: Payne, James
Sent: Thur 2/15/2018 10:29:30 PM
Subject: Region 6 - open referrals at DOJ for regulatory and Superfund cases
[Regulatory Open Referrals at DOJ 2-15-2018.xlsx](#)
[Superfund Open Referrals at DOJ 02-15-18a.docx](#)

Anne – as mentioned, attached is an updated tracker of open DOJ referrals for civil regulatory and Superfund cases. These trackers have been cross-checked with DOJ though not yet with OECA. Including Susan B and others here. Jim

To: Overbay, Connie[Overbay.Connie@epa.gov]; Gilrein, Stephen[gilrein.stephen@epa.gov]
From: Seager, Cheryl
Sent: Fri 1/26/2018 9:00:14 PM
Subject: FW: Information request chart
Copy of Information Request List from Share Drive Read Files.xlsx

Connie – there are a couple of changes that I don't think I got in the sharepoint version. I was having trouble so copied to an excel file.

From: Seager, Cheryl
Sent: Friday, January 26, 2018 2:59 PM
To: Gray, David <gray.david@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>
Subject: Information request chart

Anne and David,

I've attached a spreadsheet with all of our information requests, covering the last 5 years. The chart reflects all media, and the current status of the requests. Please let me know if you have any questions.

Cheryl

To: Payne, James[payne.james@epa.gov]
From: Seager, Cheryl
Sent: Wed 3/1/2017 6:36:49 PM
Subject: FW: Docket meeting
Docket Agenda 02232017.docx

Jim - I've attached a start for the docket agenda that I'll also send out to the branch chiefs for comments. It would be great if someone could take this over and run with it. I'm afraid that I'm going to drop the ball if I'm the one doing it, and I think it's important to meet with HQ and DOJ to firm up what we can conclude this year.

The main thing is finalizing a date with Tom and Susan, and then finalizing the agenda. The week of the 6th is already filling up du ew

-----Original Message-----

From: Carroll, Thomas (ENRD) [mailto:Thomas.Carroll@usdoj.gov]
Sent: Tuesday, February 21, 2017 3:41 PM
To: Seager, Cheryl <Seager.Cheryl@epa.gov>; Shinkman, Susan <Shinkman.Susan@epa.gov>
Cc: Payne, James <payne.james@epa.gov>
Subject: RE: Docket meeting

The week of March 6 is better for me. Best days are Tuesday, Wednesday or Thursday. -- T.C.

-----Original Message-----

From: Seager, Cheryl [mailto:Seager.Cheryl@epa.gov]
Sent: Tuesday, February 21, 2017 4:25 PM
To: Carroll, Thomas (ENRD) <TCarroll@ENRD.USDOJ.GOV>; Shinkman, Susan <Shinkman.Susan@epa.gov>
Cc: Payne, James <payne.james@epa.gov>
Subject: Docket meeting

Tom and Susan - since the SEMM is cancelled I wanted to follow up on the docket date. Since our travel funds are a little limited it may not make sense for R6 to come up to D.C. Tom had mentioned at one point DOJ may be able to come to the region, but I'm not sure about Susan.

Since it won't coincide with the SEMM we can also push it back a week or so if that is easier for people. I thought it might be easier to start with the 4 of us to figure out when and where - so let me know your preference and I'll try to get it scheduled.

Sent from my iPhone